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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय

(आर्थिक कार्य विभाग)

नई दिल्ली, 5 जून, 2009

का.आ. 1872.—वित्त मंत्रालय, आर्थिक कार्य विभाग की दिनांक 30 मई 2008 की समसंख्यक अधिसूचना में आंशिक संशोधन करते हुए, वित्त मंत्रालय, आर्थिक कार्य विभाग के निम्नलिखित अधिकारियों को उनके नामों के सामने उल्लिखित प्रभाग के सम्बन्ध में अपीलीय प्राधिकारी/केन्द्रीय जन सूचना अधिकारी के रूप में पदनामित किया जाता है :

क्र. सं.	नाम	पदनाम	निम्नलिखित अधिकारी के स्थान पर	निम्नलिखित मामलों से सम्बन्धित
(1)	(2)	(3)	(4)	(5)
1.	श्री सुरजीत सिंह	निदेशक	श्री सागर मेहरा	अपीलीय प्राधिकारी
2.	सुश्री अपर्णा सिन्हा	उप निदेशक	श्री मूलचन्द	बहुपक्षीय सम्बन्ध (पूर्ववर्ती एकटी प्रभाग)
3.	श्री रोहित माथुर	अवर सचिव (एमआई प्रभाग)	—	बहुपक्षीय संस्थाएं (पूर्ववर्ती फण्ड बैंक)
4.	डॉ. पी.जी.एस. राव	उप निदेशक	श्री पी. मोहनदासन	अवसरचना एवं निवेश (पूर्ववर्ती इन्फ्रा/एडीबी एवं सीएण्डसी)

(1)	(2)	(3)	(4)	(5)
5.	श्रीमती अरुण प्रभा	अवर सचिव (फैरान् एवं प्रसिद्धि)	—	द्विपक्षीय सहयोग (बीसी)
6.	श्री एस. के. गिरीधर	अवर सचिव (प्रसिद्धि-IV)	—	रेकॉर्ड, प्रसिद्धि-IV एवं पुस्तकालय

[फा. सं. 1/1/2005-आरटीआई]
एस. कनकम्बरन, अवर सचिव (आरटीआई)

MINISTRY OF FINANCE
(Department of Economic Affairs)
New Delhi, the 30th June, 2009

S.O. 1872.—In partial modification of Ministry of Finance, Department of Economic Affairs' notification of even number dated 30th May, 2008, the following officers of the Ministry of Finance, Department of Economic Affairs are designated as Appellate Authority/Central Public Information Officers in respect of Division mentioned against their names :

S. No.	Name	Designation	Vice	Matters relating to
(1)	(2)	(3)	(4)	(5)
1.	Mr. Surjit Singh	Director	Mr. Sagar Mishra	Appellate Authority
2.	Ms. Aparna Sinha	DD	Mr. Mani Chand	Multilateral Relations (earlier FT Division)
3.	Mr. Rohit Mathur	US(MI Div)	—	Multilateral Institutions (earlier Fund Bank)
4.	Dr. P.G.S. Rao	DD	Mr. P. Mahadassan	Infrastructure & Investment (Earlier Infra/ADB & C&C)
5.	Mrs. Arun Prabha	US(PMU & Trg)	—	Bilateral Cooperation
6.	Mr. S. K. Ghildiyal	US(Ad IV)	—	Cash, Admn IV & Library

[F. No. 1/1/2005-RTI]

S. KANAKAMBARAN, Under Secy. (RTI)

नई दिल्ली, 30 जून, 2009

क्र.आ. 1873.—वित्त मंत्रालय, आर्थिक कार्य विभाग की दिनांक 5 जून, 2009 की समस्तजनक अधिसूचना में आर्थिक संशोधन करते हुए, सुश्री मोनिका धाम्नी, अवर सचिव (एफआईबी) को एफआईबी एकक से सम्बन्धित मामलों के लिए केंद्रीय जन सूचना अधिकारी (सीपीआईओ) के रूप में नियुक्त किया जाता है।

[फा. सं. 1/1/2005-आरटीआई]

एस. कनकम्बरन, अवर सचिव (आरटीआई)

New Delhi, the 30th June, 2009

S. O. 1873.—In partial modification of Ministry of Finance Department of Economic Affairs' notification of even number dated 5th June, 2009, Ms. Monica Dhanni, Under Secretary (FIPB) is appointed as CPIO for matters relating to FIPB unit.

[F. No. 1/1/2005-RTI]

S. KANAKAMBARAN, Under Secy. (RTI)

(वित्तीय रेकॉर्ड विभाग)

नई दिल्ली, 30 जून, 2009

क्र.आ. 1874.—बैंकरी विनियमन अधिनियम, 1949 (1949 का 18) की धारा 53 (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर, एफआईबी, यह घोषणा करती है कि उक्त अधिनियम की धारा 19 की उपधारा (2) के उपबंध, भारतीय स्टेट बैंक पर उस सीमा तक लागू नहीं होंगे जहां तक उक्त सम्बन्ध विधि प्रबंधन कर्तव्यों का: विधि के निवेदा प्रबंधक

("भारतीय प्रबंधक") तथा निधि के न्यासी ("न्यासी कंपनी"), का प्रस्तावित इंडिया ओमान ज्वाइंट इन्वेस्टमेंट फंड के सम्बन्ध में उपर्युक्त कंपनियों की 30% से अधिक की चुकता शेयर पूंजी का इक्विटी में उसके निवेश/मालिकाना से है।

[पर. सं. 13/1/2009-बी ओ ए]

डी. डी. माहेश्वरी, अपर सचिव

(Department of Financial Services)

New Delhi, the 30th June, 2009

S. O. 1874.—In exercise of the powers conferred by Section 53 (1) of the Banking Regulation Act, 1949 (10 of 1949), the Government of India, on the recommendations of Reserve Bank of India, hereby declares that the provisions of Section 19 (2) of the said Act shall not apply to State Bank of India in so far as they relate to its investment in the equity/ voting rights of the fund management entities, namely, Investment Manager of the Fund ("Indian Manager") and the trustees of the fund ("Trustee Company"), in excess of 30% of the paid-up share capital of the entities mentioned above with reference to the proposed India Oman Joint Investment Fund.

[F.No. 13/1/2009-BOA]

D. D. MAHESHWARI, Under Secy.

काजसचिव, मुख्य आयकर आयुक्त

नारिक, 22 जून, 2009

आयकर नियमावली, 1961 की धारा 10(23ग) (VI) के तहत अधिसूचना

क्र.अ. 1875.—आयकर नियमावली, 1962 के नियम 2ग क के साथ पठित आयकर नियम 1961 की धारा 10 के खंड (23ग) के उप-खंड (Vi) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैं, मुख्य आयकर आयुक्त, नारिक एम्पायर बिल्डिंग प्रसारक बॉर्डर, सी बी रूट के पास, पुराना आगरा रोड, नारिक-422 002 को निम्नलिखित शर्तों के अधीन वित्तीय वर्ष 2009-10 तक आयकर संपत्ती तथा धारा के लिए अनुमोदन प्रदान करता हूँ :-

- (1) निर्धारित, अपनी आय का इस्तेमाल अथवा अपनी आय का इस्तेमाल करने के लिए इसका संयोजन पूर्ववत् तथा अन्यथा उप उद्देश्यों के लिए करण बिनाके लिए इसकी स्थापना की गई है।
- (2) निर्धारित उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में निर्दिष्ट किसी एक अथवा एक से अधिक बंग अवकाश शर्तों से निम्न शर्तों से अपनी निधि (वेयर-कॉन्ट्रिब्यूट, कर्नलर ऑफि के रूप में प्राप्त तथा अनुरक्षित स्वेच्छिक अंशदान से भिन्न) का निवेश नहीं करण अथवा उसे तथा नहीं करण।
- (3) यह अधिसूचना किसी ऐसी आय के सम्बन्ध में लागू नहीं होगी, जो कि कर्नलर से प्राप्त लाभ तथा अधिस्त्रम हो जब तक कि ऐसा कर्नलर बोर्ड के उद्देश्यों की प्राप्ति के लिए प्रारम्भिक नहीं हो तथा ऐसे कर्नलर के सम्बन्ध में अलग से लेखा पुरिस्कर्ष नहीं रखी जाती हों।
- (4) निर्धारित आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी धारा (23ग) के पहले चर्तुक के अनुसार लेखा परीक्षा रिपोर्ट के साथ नियमित रूप से आयकर प्रविधारी के समक्ष प्रस्तुत करण।
- (5) विघटन की स्थिति में अवशिष्ट (बची हुई) अस्तित्व किसी ऐसे संस्थान को दी जाएगी जिसके उद्देश्य समान हों, और इन अस्तित्वों का कोई भी भाग संस्था के सदस्यों को नहीं दिया जाएगा।
- (6) यह अनुमोदन, अधिनियम की धारा 143(3) के चर्तुक के प्रावधानों के तहत पर आधारित है।
- (7) अधिनियम की धारा 10(23ग) के 13 वें चर्तुक के प्रावधानों के अनुसार अधिनियम में अनुमोदन तब किन्तु या करण।
- (8) यह अनुमोदन आयकर अधिनियम 1961 की धारा 10(23ग) (Via) के लिए ही दिया जा रहा है, अन्य किसी उद्देश्य से नहीं।
- (9) यदि बाद में यह पाया जाए कि यह अनुमोदन तबों के दुरुपयोग से अथवा खोसा-पड़ी करके प्राप्त किन्तु है, तो यह अनुमोदन रद्द/रद्द (प्रभावहीन) जाएगा।
- (10) कोई आय जो किसी व्यवसाय, कर्मिन्, उद्योग की कर्मिन्धियों से अथवा व्यवसाय, कर्मिन्, उद्योग के सम्बन्ध में दी गई सेवाओं के स्वयं में प्राप्त हो, भले ही इन कर्मिन्धियों से प्राप्त आय के उपयोग का निवेश या संयोजन की प्रकृति कुछ भी हो उन पर यह अनुमोदन लागू नहीं होगा।
- (11) आयकर अधिनियम की धारा 115 बीबीसी के साथ पठित धारा 10(23सी) के चर्तुवें चर्तुक को देखते हुए यह प्रावधान, मुक्त धारों के सम्बन्ध में लागू नहीं होगा।

(र/-)

[सं. न/मु.अ.अ.10(23ग)(VI)/2009-10/934]

डी. डी. माहेश्वरी, मुख्य आयकर आयुक्त

OFFICE OF THE CHIEF COMMISSIONER OF INCOME TAX

Nashik, the 22nd June, 2009

Notification under Section 10(23C)(vi) of the Income Tax Act, 1961

S. O. 1875.—In exercise of the powers conferred on me by the sub-clause (vi) of clause (23C) of the Sec. 10 of the Income-tax Act, 1961 read with rule 2CA of the IT Rule, 1962, I, Chief Commissioner of Income-tax, Nashik hereby accord approval to BAL VIDYA PRASARAK MANDAL, Near CBS, old Agra Road, Nashik-422002 for the purpose of the said section from A. Y. 2009-10 onwards, subject to the conditions mentioned hereunder :

1. The assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established.
2. The assessee will not invest or deposit its fund (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) otherwise than in any one or more of the forms or modes specified in Sub-section (5) of Section 11.
3. This notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.
4. The assessee will regularly file its return of income alongwith audit report as per tenth proviso to sec. 10(23C) before the Income-tax authority in accordance with the provisions of the I.T. Act, 1961.
5. In the event of dissolution, its surplus assets will be given to an organization with similar objectives and no part of the same will go to any of the members of the institution.
6. The approval granted shall be subject to the provision of proviso to Section 143(3) of the Act.
7. The approval may be withdrawn (1 in future as per provisions of 13th proviso to Section 10(23C). 10(23C)(vi)
8. The above approval is given only for the purpose of Section 10(23C) (via) of the I.T. Act, 1961 and not for any other purposes.
9. The approval shall be void if it is subsequently found that it has been obtained by fraud or misappropriation of fact.
10. This approval shall not apply in relation to any income from any activity in the nature of trade, commerce or business or rendering of any service in relation to trade, commerce or business irrespective of the nature of use or application or retention of income from such activity.
11. The approval shall not apply in relation to anonymous donations in terms of the fifteenth proviso to Sec. 10(23C) r.w.s. 115 BBC of the I.T. Act.

[No. NSK/CCIT/10 (23C) (vi)/2009-10/934]

(Sd/-)

V. K. SHRIDHAR, Chief Commissioner of Income Tax

स्वास्थ्य और परिकार कल्याण मंत्रालय

(स्वास्थ्य और परिकार कल्याण विभाग)

नई दिल्ली, 26 जून 2009

का.आ. 1876.—केन्द्र सरकार भारतीय आयुर्विज्ञान परिषद् से परामर्श करने के पश्चात् भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम की प्रथम अनुसूची में एतद्वारा निम्नलिखित और संशोधन करती है, अर्थात् :-

उक्त प्रथम अनुसूची में "महाराष्ट्र स्वास्थ्य विज्ञान विश्वविद्यालय, नासिक, महाराष्ट्र" के सामने शीर्षक मान्यताप्राप्त अर्हता [स्तंभ (2) में] के अंतर्गत एवं शीर्षक "पंजीकरण के लिए संक्षेपण" [स्तंभ (3) में] के अंतर्गत निम्नलिखित प्रविष्टियां रखी जाएंगी, अर्थात्

2	3
आयुर्विज्ञान एवं शल्य विज्ञान स्नातक	एम बी बी एस (यह एक मान्यताप्राप्त पिकित्सा अर्हता होगी यदि यह महाराष्ट्र स्वास्थ्य विज्ञान विश्वविद्यालय, नासिक, महाराष्ट्र द्वारा पदमश्री डा. बिट्ठलराव पिछे फाउंडेशन मेडिकल कालेज, अहमदनगर, महाराष्ट्र में प्रशिक्षित किए जा रहे छात्रों के सम्बंध में दिसम्बर, 2008 के बाद प्रदान की गई हो)

[सं. यू. 12012/37/2001-एम ई (पी-II)]

के. वी. एस. राव, उप सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

New Delhi, the 26th June, 2009

S. O. 1876.—In exercise of the powers conferred by sub-section (2) of the Section 11 of the Indian Medical Council act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely :—

In the said First Schedule against "Maharashtra University of Health Sciences, Nasik, Maharashtra" under the heading 'Recognized Medical Qualification' [in column (2)] and under the heading 'Abbreviation for Registration' [in column (3)], the following shall be inserted, namely :—

2	3
Bachelor of Medicine and Bachelor of Surgery	M.B.B.S. (This shall be a recognized medical qualification when granted by Maharashtra University of Health Sciences, Nasik, Maharashtra after December, 2008 in respect of students being trained at Padamshri Dr. Vithalrao Vikhe Patil Foundation's Medical College, Ahmednagar, Maharashtra)

[No. U. 12012/37/2001-ME(P-II)]

K. V. S. RAO, Dy. Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

भारतीय मानक ब्यूरो

नई दिल्ली, 22 जून, 2009

का.आ. 1877.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक (कोई) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 2002-2009 दाब पात्र एवं बायलर के लिए मध्यवर्ती और उच्च तापमान सेवाओं हेतु इस्पात की प्लेट (तीसरा पुनरीक्षण)	2002 : 1992	1 अगस्त 2009

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110 002, क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों: अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : एमटीडी 4/टी-3]

श्री पी. घोष, वैज्ञानिक 'ई' एवं प्रमुख (एमटीडी)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

BUREAU OF INDIAN STANDARDS

New Delhi, the 22nd June, 2009

S.O. 1877.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :—

SCHEDULE

Sl. No.	No. and Year of the Indian Standards Established	No. and year of Indian Standards, if any Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS 2002 : 2009-Steel plate for pressure vessel for intermediate and high temperature service including boilers (Third Revision)	2002 : 1992	1 August 2009

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: MTD 4/T-3]

SHRI P. GHOSH, Scientist 'E' & Head (MTD)

नई दिल्ली, 29 जून, 2009

का.आ. 1878.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसार में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गए मानक (कों) में संशोधन किया जा रहा है :—

अनुसूची

क्रम सं.	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 5312 (भाग 1) : 2004	2, मई 2009	1 अगस्त 2009
2.	आई एस 13592 : 1992	5, फरवरी 2009	23 जून 2009

इन संशोधनों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110 002, क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुंबई तथा राज्य कार्यालयों: अहमदाबाद, बंगलूर, बोकारो, कोयंबटूर, कानपुर, कोलकाता, कुरुक्षेत्र, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तपुरम में विक्री हेतु उपलब्ध हैं।

[संदर्भ : सीईडी/संशोधन]

ए. को. सी.सी., वैज्ञानिक 'एक' एवं प्रमुख (वित्तियत इन्फोर्मिटी)

New Delhi, the 29th June, 2009

S.O. 1878.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :—

SCHEDULE

Sl. No.	No. and Year of the Indian Standards	No. and year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 5312 (Part 1) : 2004	2, May 2009	1 August 2009
2.	IS 13592 : 1992	5, February 2009	23 June 2009

Copy of these amendments are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices : New Delhi, Kolkata Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: CED/Gazette]

A. K. SAINI, Scientist 'F' & Head (Civil Engg.)

नई दिल्ली, 30 जून, 2009

क्र.अ. 1879.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गये मानकों में संशोधन किये गये हैं :—

अनुसूची

क्रम सं. (1)	संशोधित भारतीय मानक की संख्या और वर्ष (2)	संशोधन की संख्या और तिथि (3)	संशोधन लागू होने की तिथि (4)
1.	आई एस 1592 : 2003	1, मई 2009	24 जून 2009
2.	आई एस 13958 : 1994	3, दिसम्बर 2008	17 जून 2009
3.	आई एस 14276 : 1995	3, जून 2009	10 जून 2009

इन संशोधनों की प्रतियाँ भारतीय मानक ब्यूरो मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110 002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा राज्य कार्यालयों अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयंबटूर, गुवाहाटी, हैदराबाद, जबपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में विक्री हेतु उपलब्ध हैं।

[संदर्भ : सीईडी/राजपत्र]

ए. के. सेनी, वैज्ञानिक 'एफ' एवं प्रमुख (सिविल इंजीनियरी)

New Delhi, the 30th June, 2009

S.O. 1879.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies the amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :—

SCHEDULE

Sl. No.	No. and Year of the Indian Standards	No. and year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 1592:2003	1, May 2009	24 June 2009
2.	IS 13958: 1994	3, December 2008	17 June 2009
3.	IS 14276:1995	3, June 2009	10 June 2009

Copy of these amendments are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: CED/Gazette]

A. K. SAINI, Scientist 'F' & Head (Civil Engg.)

नई दिल्ली, 30 जून, 2009

का.आ. 1880.—भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :-

अनुसूची

क्रम सं.	स्थापित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिरिक्तित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 281 : 2009, पेडलॉक के साथ उपयोग के लिए मृदु इस्पात के सरकवां दरवाजों के काबलें विशिष्ट (चौथा पुनरीक्षण)	आईएस 281 : 1991	01 अगस्त 2009

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110 002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयंबटूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : सीईडी /एजपत्र]

ए. के. सेनी, वैज्ञानिक 'एफ' व प्रमुख (सिविल इंजीनियरी)

New Delhi, the 30th June, 2009

S.O. 1880.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :—

SCHEDULE

Sl. No.	No. & Year of the Indian Standards Established	No. & year of the Indian Standards, if any, superseded by the new Indian Standard	Date of Establishment
(1)	(2)	(3)	(4)
1.	IS 281 : 2009 Mild Steel sliding door bolts for use with padlocks-Specification (Fourth revision)	IS 281 : 1991	01 August 2009

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: CED/Gazette]

A. K. SAINI, Scientist 'F' & Head (Civil Engg.)

नई दिल्ली, 30 जून, 2009

का.आ. 1881.—भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गए मानकों में संशोधन किए गये हैं :-

अनुसूची

क्रम संशोधित भारतीय मानक सं. की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)
1. आई एस 1038 : 1983	3, मई 2009	1 अगस्त 2009

इन संशोधनों की प्रतियाँ भारतीय मानक ब्यूरो मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110 002, क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों: अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयंबटूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : सीईडी/राजपत्र]

ए. के. सैनी, वैज्ञानिक 'एफ' एवं प्रमुख (सिविल इंजीनियरी)

New Delhi, the 30th June, 2009

S.O. 1881.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies the amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :—

SCHEDULE

Sl. No.	No. & Year of the Indian Standards	No. and year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 1038 : 1983	3, May 2009	1 August 2009

Copy of these amendment are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: CED/Gazette]

A. K. SAINI, Scientist 'F' & Head (Civil Engg.)

नई दिल्ली, 3 जुलाई, 2009

का.आ. 1882.—भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खण्ड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए मानक (कों) में संशोधन किया गया/किये गये हैं :

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 2787:2006 तेल दाब हीटर- विशिष्ट (तीसरा पुनरीक्षण)	संशोधन न.1 जून 2009	30 जून, 2009
2.	आई एस 10942:2000 फेरुल -विशिष्ट (पहला पुनरीक्षण)	संशोधन न. 1 अक्टूबर 2008	31 अक्टूबर 2008

इस संशोधन की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली- 110 002, क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों: अहमदाबाद, बंगलूर, भोपाल, भुवनेश्वर, कोयंबातूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनंतपुरम में विक्री हेतु उपलब्ध हैं।

[संदर्भ : एम ई. डी./जी-2:1]

सौ. के. वेदा, वैज्ञ. एफ. एवं प्रमुख (टेक्नीकल इंजीनियरी)

New Delhi, the 3rd July, 2009

S.O. 1882.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl.No.	No. and year of the Indian Standards	No. and year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1	IS 2787: 2006 Oil pressure heaters- Specification (Third Revision)	Amendment No. 1 June, 2009	30 June 2009
2	IS 10942: 2000 Ferrule -Specification (First Revision)	Amendment No. 1 October, 2008	31 October 2008

Copy of this Standards, is available for sale with the Bureau of Indian Standards Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patana, Pune, Thiruvananthapuram.

[Ref: MED/G-2:1]

C. K. VEDA, Sc. F. & Head (Technical Engineering)

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 8 जुलाई, 2009

का.आ. 1883.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि गुजरात राज्य में वाडीनार से मध्य प्रदेश राज्य में बीना तक क्रूड ऑयल के परिवहन हेतु भारत ओमान रिफाइनरीज लिमिटेड द्वारा एक पाईपलाईन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को ऐसी पाईपलाईन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में, जो इससे उपाबद्ध अनुसूची में वर्णित है, जिसमें उक्त पाईपलाईन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाईपलाईन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर भूमि के नीचे पाईपलाईन बिछाई जाने के लिए उसमें उपयोग के अधिकार के अर्जन के संबंध में श्री एस. के. ब्रह्मभट्ट, सक्षम प्राधिकारी, वाडीनार बीना क्रूड ऑयल पाईपलाईन परियोजना, भारत ओमान रिफाइनरीज लिमिटेड, 14, 14-ए कृष्णा बंगलोय, प्रहलाद नगर, अहमदाबाद-380051 (गुजरात) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तहसील : मुली जिला : सुरेन्द्र नगर		राज्य : गुजरात	
क्रम सं.	गांव का नाम	सर्वे नम्बर	क्षेत्रफल हेक्टेयर में
1	2	3	4
1.	उमरडा	263	00.0604
		261 पैकी	00.2812
		382 पैकी	00.0731
		382/पैकी 2	00.2400
		383	00.4206
		424/1	00.0450
		379	00.2760
		378	00.2710
		381	00.4960
		353	00.0338
		259/पैकी 1	00.0986
2.	धर्मन्द्रगढ़	661/17	00.0709
		81/2	00.0130
		89	00.1948
		98 पैकी	00.0833
		98/3 पैकी	00.0560
3.	सोमासर	51 पैकी	00.1246

[फा. सं. आर-31015/18/2009-ओ.आर.-II]

ए. गोस्वामी, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 8th July, 2009

S. O. 1883.—Whereas it appears to the Central Government that it is necessary in the public interest that for transportation of crude oil from Vadinar in the State of Gujarat to Bina in the State of Madhya Pradesh, a pipeline should be laid by Bharat Oman Refineries Limited;

And whereas it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the Right of User in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the power conferred by sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person, interested in the land described in the said Schedule may, within twenty one days from the date on which copies of the Gazette of India containing this Notification are made available to the public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri S. K. Brahmabhatt, Competent Authority, Vadinar-Bina Crude Oil Pipeline Project, Bharat Oman Refineries Limited, 14 and 14-A Krishna Bungalow, Near Prahladnagar, B/h. V.S.N.L., Bldg., Ahmedabad - 380051 (Gujarat).

SCHEDULE

Tehsil : Muli District : Surendra Nagar State : Gujarat

S.No.	Name of Village	Survey No.	Area in Hectare
1	2	3	4
1.	Umarda	263	00.0604
		261 P	00.2812
		382 P	00.0731
		382/P2	00.2400
		383	00.4206
		424/1	00.0450
		379	00.2760
		378	00.2710
		381	00.4960
		353	00.0338
		259/P 1	00.0986
2.	Dharmendragadh	661/1 7	00.0709
		81/2	00.0130
		89	00.1948
		98 P	00.0833
3.	Somasar	98/3 P	00.0560
		51 P	00.1246

[F. No. R-31015/18/2009-OR-II]

A. GOSWAMI, Under Secy.

नई दिल्ली, 8 जुलाई, 2009

सर.आ. 1884.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि गुजरात राज्य में वाडीनार से मध्य प्रदेश राज्य में बीना तक क्रूड ऑयल के परिवहन हेतु भारत ओमान रिफाइनरीज लिमिटेड द्वारा एक पाईपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को ऐसी पाईपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में, जो इससे उपाबद्ध अनुसूची में वर्णित है, जिसमें उक्त पाईपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाईपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में स्थित है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर भूमि के नीचे पाईपलाइन बिछाई जाने के लिए उसमें उपयोग के अधिकार के अर्जन के संबंध में श्री एस. के. ब्रह्मभट्ट, सक्षम प्राधिकारी, वाडीनार बीना क्रूड ऑयल पाईपलाइन परियोजना, भारत ओमान रिफाइनरीज लिमिटेड, 14, 14-ए कृष्ण बंगला, प्रह्लादनगर, अहमदाबाद-380051 (गुजरात) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

क्रम सं.	गांव का नाम	सर्वे नम्बर	क्षेत्रफल हेक्टेयर में
1	2	3	4
1.	बगोदरा	93/7	00.0040
		922/1 पैकी	00.4200
		93/7	00.0040
2.	मीठापुर	272	00.2638
		276	00.1250
		111	00.0040
3.	मेमर	125 पैकी	00.0630

[फा. सं. आर.-31015/20/2009-ओ.आर.-II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 8th July, 2009

S.O. 1884.—Whereas it appears to the Central Government that it is necessary in the public interest that for transportation of crude oil from Vadinar in the State of Gujarat to Bina in the State of Madhya Pradesh, a pipeline

should be laid by Bharat Oman Refineries Limited;

And whereas it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the Right of User in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the power conferred by sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person, interested in the land described in the said Schedule may, within twenty one days from the date on which copies of the Gazette of India containing this Notification are made available to the public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri S. K. Brahmabhatt, Competent Authority, Vadinar-Bina Crude Oil Pipeline Project, Bharat Oman Refineries Limited, 14 and 14-A, Krishna Bungalow, Near Prahladnagar, B/h. V.S.N.L., Bldg., Ahmedabad - 380051 (Gujarat).

SCHEDULE

Tehsil : Bavla District : Ahmedabad State : Gujarat

S. No.	Name of Village	Survey No.	Area in Hectare
1	2	3	4
1.	Bagodara	93/7	00.0040
		922/1 P	00.4200
		93/7	00.0040
2.	Mithapur	272	00.2638
		276	00.1250
		111	00.0040
3.	Meemur	125 P	00.0630

[F. No. R-31015/20/2009-OR-II]

A. GOSWAMI, Under Secy.

नई दिल्ली, 8 जुलाई, 2009

सर.आ. 1885.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि गुजरात राज्य में वाडीनार से मध्य प्रदेश राज्य में बीना तक क्रूड ऑयल के परिवहन हेतु भारत ओमान रिफाइनरीज लिमिटेड द्वारा एक पाईपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को ऐसी पाईपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में, जो इससे उपाबद्ध अनुसूची में वर्णित है, जिसमें उक्त पाईपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाईपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग

करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियां साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर भूमि के नीचे पाईपलाईन बिछाई जाने के लिए उसमें उपयोग के अधिकार के अर्जन के संबंध में श्री एस. के. ब्रह्मभट्ट, सक्षम प्राधिकारी, वाडीनार बीना क्रूड ऑयल पाईपलाईन परियोजना, भारत ओमान रिफाइनरीज लिमिटेड, 18, शान्तिनिकास सोसायटी, प्रभा रोड, गोधरा-389001 (गुजरात) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तहसील : देवगढ बारिया जिला : दाहोद राज्य : गुजरात			
क्रम सं.	गांव का नाम	सर्वे नम्बर	क्षेत्रफल हेक्टेयर में
1	2	3	4
1.	पीपलोद	322+336	00.2250
		575	00.0365
		474	00.4911
		269	00.1000
2.	पंचेला	117/23	00.4800
		117/पैकी 6	00.7000
		117/पैकी 7	00.2640
		117/पैकी 8	00.3640

[फा. सं. आर-31015/21/2009-ओ.आर.-II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 8th July, 2009

S. O. 1885.—Whereas it appears to the Central Government that it is necessary in the public interest that for transportation of crude oil from Vadinar in the State of Gujarat to Bina in the state of Madhya Pradesh, a pipeline should be laid by Bharat Oman Refineries Limited;

And whereas it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the Right of User in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the power conferred by sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person, interested in the land described in the said Schedule may, within twenty one days from the date on which copies of the Gazette of India containing this Notification are made available to the public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri S. K. Brahmabhatt, Competent Authority, Vadinar-Bina Crude Oil Pipeline Project, Bharat Oman Refineries Limited, 18, Shantinivas Society, Prabha Road, Godhra-389001 (Gujarat).

SCHEDULE

Tehsil : Devgadhi Bariya District : Dahod State : Gujarat

S. No.	Name of Village	Survey No.	Area in Hectare
1	2	3	4
1.	Piplod	322+336	00.2250
		575	00.0365
		474	00.4911
		269	00.1000
2.	Panchela	117/23	00.4800
		117/P/6	00.7000
		117/P/7	00.2640
		117/P/8	00.3640

[F. No. R-31015/21/2009-OR-II]

A. GOSWAMI, Under Secy.

नई दिल्ली, 8 जुलाई, 2009

का.आ. 1886.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि गुजरात राज्य में वाडीनार से मध्य प्रदेश राज्य में बीना तक क्रूड ऑयल के परिवहन हेतु भारत ओमान रिफाइनरीज लिमिटेड द्वारा एक पाईपलाईन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को ऐसी पाईपलाईन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में, जो इससे उपाबद्ध अनुसूची में वर्णित है, जिसमें उक्त पाईपलाईन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाईपलाईन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियां

साधारण जनता को उपलब्ध करा दी जाती है, इसकीस दिन के भीतर भूमि के नीचे पाईपलाईन बिछाई जाने के लिए उसमें उपयोग के अधिकार के अर्जन के संबंध में श्री एस. के. ब्रह्मपट्ट, सक्षम प्राधिकारी, वाडीनार बीना क्रूड ऑयल पाईपलाईन परियोजना, भारत ओमान रिफाइनरीज लिमिटेड, 14, 14-ए कृष्णा बंग्लो, प्रहलादनगर, अहमदाबाद-380051 (गुजरात) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तहसील : चोटीला जिला : सुरेन्द्रनगर राज्य : गुजरात

क्रम सं.	गांव का नाम	सर्वे नम्बर	क्षेत्रफल हेक्टेयर में
1	2	3	4
1.	लाखामाची	99/5 पैकी	00.4325
2.	देवलीया	33/2 पैकी	00.0130
		31/2 पैकी	00.2370
		2/2 पैकी	00.1535
		2/2 पैकी	00.2900
		71/4 पैकी	00.4500
3.	थानगढ़	225/1	00.1677
		321/1	00.1013
		227/2 पैकी	00.1731
		254/2	00.3769
		233/3	00.1350
		322/1 पैकी	00.3900
4.	रासरानी	13 पैकी	00.1100

[फा. सं. आर-31015/19/2009-ओ.आर.-II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 8th July, 2009

S. O. 1886.—Whereas it appears to the Central Government that it is necessary in the public interest that for transportation of crude oil from Vadinar in the State of Gujarat to Bina in the state of Madhya Pradesh, a pipeline should be laid by Bharat Oman Refineries Limited;

And whereas it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the Right of User in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the power conferred by sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person, interested in the land described in the said Schedule may, within twenty one days from the date on which copies of the Gazette of India containing this Notification are made available to the public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri S. K. Brahmabhatt, Competent Authority, Vadinar-Bina Crude Oil Pipeline Project, Bharat Oman Refineries Limited, 14 and 14-A Krishna Bungalow, Near Prahladnagar, B/h. V.S.N.L., Bldg., Ahmedabad - 380051 (Gujarat).

SCHEDULE

Tehsil : Chotila District : Surendra Nagar State : Gujarat

S. No.	Name of Village	Survey No.	Area in Hectare
1	2	3	4
1.	Lakhamachi	99/5 P	00.4325
2.	Devaliya	33/2 P	00.0130
		31/2 P	00.2370
		2/2 P	00.1535
		2/2 P	00.2900
		71/4 P	00.4500
3.	Thangadh	225/1	00.1677
		321/1	00.1013
		227/2 P	00.1731
		254/2	00.3769
		233/3	00.1350
		322/1 P	00.3900
4.	Rasrani	13 P	00.1100

[F. No. R-31015/19/2009-OR-II]

A. GOSWAMI, Under Secy.

नई दिल्ली, 8 जुलाई, 2009

आ.आ. 1887.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि गुजरात राज्य में वाडीनार से मध्य प्रदेश राज्य में बीना तक क्रूड ऑयल के परिवहन हेतु भारत ओमान रिफाइनरीज लिमिटेड द्वारा एक पाईपलाईन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को ऐसी पाईपलाईन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में, जो इससे उपलब्ध अनुसूची में वर्णित है, जिसमें उक्त पाईपलाईन बिछाए जाने के प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाईपलाईन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आकांक्ष की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाई जाने के लिए उसमें उपयोग के अधिकार के अर्जन के संबंध में श्री एस. के. ब्रह्मभट्ट, सक्षम प्राधिकारी, वाडीनार बीना क्रूड ऑयल पाइपलाइन परियोजना, भारत ओमान रिफाइनरीज लिमिटेड, 14, 14-ए कृष्णा बंग्लोच, प्रह्लादनगर, अहमदाबाद-380051 (गुजरात) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तहसील : वडवान		जिला : सुरेन्द्रनगर	राज्य : गुजरात
क्रम सं.	गांव का नाम	सर्वे नम्बर	क्षेत्रफल हेक्टेयर में
1	2	3	4
1.	रामपरा	17 पैकी	00.0911
		1239	00.2435
		560/2	00.1820
2.	टुवा	122	00.2430
3.	वडोद	511	00.3023
		438	00.0260
		714 पैकी	00.1450
		714 पैकी	00.1620
		714 पैकी	00.1710
		714 पैकी	00.0317
		472	00.1706
4.	बलदाना	747	00.0250
		481/2	00.0754
5.	गोमटा	248/2	00.1455
		247	00.4145
		242 पैकी	00.0445

[फा. सं. आर-31015/17/2009-ओ.आर.-II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 8th July, 2009

S.O. 1887.—Whereas it appears to the Central Government that it is necessary in the public interest that for transportation of crude oil from Vadinar in the State of Gujarat to Bina in the state of Madhya Pradesh, a pipeline should be laid by Bharat Oman Refineries Limited;

And whereas it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the Right of User in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the power conferred by sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person, interested in the land described in the said Schedule may, within twenty One days from the date on which copies of the Gazette of India containing this Notification are made available to the public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri S. K. Brahmhatt, Competent Authority, Vadinar-Bina Crude Oil Pipeline Project, Bharat Oman Refineries Limited, 14 and 14-A Krishna Bungalow, Near Prahladnagar, B/h. V.S.N.L., Bldg., Ahmedabad - 380051 (Gujarat).

SCHEDULE

Tehsil : Wadhwan District : Surendra Nagar State : Gujarat

S. No.	Name of Village	Survey No.	Area in Hectare
1	2	3	4
1.	Rampara	17 P	00.0911
		1239	00.2435
		560/2	00.1820
2.	Tuwa	122	00.2430
3.	Vadod	511	00.3023
		438	00.0260
		714 P	00.1450
		714 P	00.1620
		714 P	00.1710
		714 P	00.0317
		472	00.1706
4.	Baldana	747	00.0250
		481/2	00.0754
5.	Gomta	248/2	00.1455
		247	00.4145
		242 P	00.0445

[F. No. R-31015/17/2009-OR-II]

A. GOSWAMI, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 8 जून, 2009

का.आ. 1888.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एल. आई. सी. ऑफ इण्डिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, मुंबई के पंचाट (संदर्भ संख्या 2/77/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-6-2009 को प्राप्त हुआ था।

[सं. एल-17011/12/2009-आईआर(बी-II)]

राजेन्द्र कुमार, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 8th June, 2009

S.O. 1888.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 2/77/2002) of the Central Government Industrial Tribunal/Labour Court No. 2, Mumbai, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of LIC of India and their workman, which was received by the Central Government on 8-6-2009.

[No. L-17011/12/2009-IR(B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 2, MUMBAI**

Present : A. A. LAD, Presiding Officer

Reference No. CGIT 2/77 of 2002

Employers in relation to the management of Life Insurance Corporation of India

The Executive Director,
Life Insurance Corporation of India,
'Yogakshema East Wing,
Jeewan Beema Marg,
Mumbai 400021

....1st Party

And

Their workmen

The President/General Secretary,
Vima Kamgar Sanghatana, Mumbai Div. IV,
Gulistan Bldg. 2nd Floor,
Maharishi Karve Road,
Fort, Mumbai 400001

...2nd Party

APPEARANCE

For the Employer : Ms. F.D. Lewis, Representative.

For the Workman : Mr. C.S. Dalvi, Representative.

Dated of reserving the Award : 4-9-2008.

Dated of passing the Award : 31-3-2009.

AWARD

The matrix of the facts as culled out from the proceedings are as under :

2. The Government of India, Ministry of Labour by its order No. L-17011/12/2002-IR(B-II) dated 26-9-2002 in exercise of the powers conferred by clause (d) of sub-Section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication :

"Whether the action of the Management of LIC of India in relating to Mumbai Divisional Office-IV in imposing the punishment of removal from service to Sh. Balakrishna Kadam vide order dated 7-7-1995 is legal and justified ? Whether the allegations that the Management had not dealt with the cases of Sh. Balakrishna Kadam and Sh. R.G. Gaikar uniformly and allowed to continue Sh. Gaikar in service till his retirement whereas Sh. Kadam was removed from service while criminal proceedings were pending against them is factually correct ? In the facts and circumstances of the case, what relief is the legal heir of the disputant entitled to and what directions are necessary ?"

2. To support the subject-matter referred, the Statement of Claim is filed by the President of Insurance Employees Sangathana, 2nd Party, making out the case that, the concerned workman Balakrishna Kadam was working with the 1st Party as a Peon while R.G. Gaikar was working as a Record Clerk with the 1st Party which fall in Class III cadre. That time one Kadam was also working as Peon which fall under Class IV cadre. According to Sangathana the Staff Regulations 1960 are equally applicable to all Class III and IV Cadre employees.

3. According to Sangathana on 15th October, 1986 a Chargesheet was served on both i.e. on Gaikar and Kadam, Peon referred above, leveling the allegations of making collusion to defraud of stealing blank cheques resulting into loss of Rs. 34,910 to the Life Insurance Corporation of India. The charge sheet was served on the concerned workman on 18-10-1986. It is submitted by the Sangathana that, said Shri Kadam and Shri Gaikar were immediately suspended and on revoking Mr. Kadam's suspension he was transferred to another branch No.880 in Fort area. Gaikar denied the charges levelled against him. Enquiry was initiated and in 1991 Shri R. L. Mehta was appointed as an Enquiry Officer. Before that, one Shri C.D. Kamat was appointed as an Enquiry Officer who died. After transfer of said Mr. Mehta another Enquiry Officer Mr. H.N. Verma was appointed in 1993 as such 1st Party took 6 years to complete the enquiry.

4. Enquiry Officer submitted a report on 28-3-1994 after examining 3 witnesses having no connection at all observing that, charge of stealing the cheques failed and

not proved against Kadam. Disciplinary Authority disagreed with the finding of the Enquiry Officer and says that, the charge of handing over the cheques by Kadam to third party stood proved. Even on the charge of stealing the cheques and handing over to third party, it is not made known who was that third party. It is submitted by the Sangathana that, the decision of the Disciplinary Authority was against the finding of the Enquiry Officer was wrong and it is not admitted to Sangathana. Besides it is contended that, no decision was given on the said view of the Appellate Authority. So it is submitted that, the finding given by the Disciplinary Authority which was against the decision and finding of the Enquiry Officer is perverse and subjective. Besides it is contended that Mr. Gaikar and Mr. Jain who were other alleged participants in the said incident were not examined to observe charges were proved against Kadam. It is stated that, fair opportunity was not given to the concerned workman Kadam. It is stated that, Disciplinary Authority has not taken care to follow the procedure which require to follow in Departmental Enquiry. It is contended that, the Disciplinary Authority only relied on the confessional statement of the concerned workman which was obtained under coercion and which was recorded outside the enquiry scope. It is not made known under which circumstances said alleged confession was given by the concerned workman. The Typist who recorded confessional statement of the concerned workman was not examined as witness. It is further stated that, the concerned workman was not having his account. It is stated that, his service record was good and all these factors were not considered by the Disciplinary Authority. Incident of stealing the cheques and handing over to third party is not proved against the concerned workman. It is stated that, 2 ladies who were initially involved in the said incident have been let off. Even those were not examined as witness to prove the charges against the concerned workman. It is alleged that, if those two ladies would have been examined it might have thrown light on the entire issue to find out who was the real culprit. It is further stated by Sangathana that, the final order dated 7-7-1995 suffers from various disabilities and self-contradictions and there was no attempt to go to the root of matter and to find out the real culprit of this. It is stated that, the alleged recorded confessional statement itself shows that, it is not in the situation and free from coercion and intimidation. It is stated that, the witnesses examined were interested one and they cannot be relied. It is stated that, the story put up by the Management's representative was imaginary and appears cocked one to involved the concerned workman. Criminal case was filed against the concerned workman by CBI along with other employees Shri R.G. Gaikar and Shri Jain. the Management suspended the enquiry against Gaikar on the plea that criminal case was pending against him and that analogy was not made applicable against the

concerned workman Kadam who was kept under suspension though criminal case was pending against him like Gaikar. Even Management allowed said Gaikar to retire, though criminal case was pending, without holding enquiry and such analogy was also not made applicable to the concerned workman. So there is disparity in the attitude and approach of the Management while taking decision against Gaikar and the concerned workman Kadam. So it is submitted that, the enquiry was not fair and proper vis-a-vis decision taken by Disciplinary Authority of making discrimination by allow Gaikar to retire and holding the concerned workman Kadam guilty of the charges baise so it be set aside with directions to the 1st Party to reinstate him with benefits to the concerned workman which were given to Gaikar.

5. This is disputed by 1st Party by filing written statement at Exhibit 5 making out the case that, the concerned workman Kadam, a sub-staff was working in the Salary Saving Scheme Department (the "SSS Department") of the then Bombay Divisional Office was charge sheeted for colluding with some other persons in stealing 8 blank cheques between January, 1986 to March, 1986. According to 1st Party charge sheet was issued on 18-10-1986 charging him with fraudulently stealing Corporation's blank cheques for his personal monetary gain with intention to defraud then Corporation and thereby causing financial loss to the Corporation to the tune of Rs. 34,910. It is contended that, during the preliminary enquiry conducted on 27-5-1986, the concerned workman had admitted to having stolen the cheques and handed over the same to a third person at the instance of Gaikar who was working as a Record Clerk in the SSS Department for a monetary compensation of Rs. 750. It is stated that, on the basis of said FIR was lodged by the Corporation against Kadam, Gaikar and Bhairulal Babulal Jain. It is further stated that, Gaikar was issued charge sheet on 18-10-1986 and however in view of pending criminal case against Gaikar the departmental enquiry was suspended and on 30-6-1991 said Gaikar retired from the services of the Corporation on attaining the age of superannuation. It is contended that, since there was no provision for continuing departmental enquiry against retired person the same was abated. It is stated that, thereafter said Gaikar died on 30-11-1995 and on account of his death the criminal case filed against him by CBI also abated.

6. It is further contended by the Corporation that, as far as the concerned workman Kadam was concerned, enquiry was conducted against him by Shri Verma, Enquiry Officer and before him 3 witnesses were examined by the Management and those were cross examined by Kadam. On that Enquiry officer submitted his report on 28-3-1994 holding concerned workman guilty of the charges except that of stealing blank cheques. The Disciplinary Authority, however, on examination of the

records of the case was inclined to hold the concerned workman guilty of all the charges and on 10-1-1995 issued to the concerned workman show cause notice proposing to removal of his services under Regulation 39(1) of the (Staff) Regulation. It is contended by the Corporation that, the concerned workman gave reply to the said which was duly considered by the Disciplinary Authority and final decision was taken by the Disciplinary Authority and order removing the concerned workman from the services of the Corporation was passed on 7-7-1995. Said was challenged by the concerned workman by preferring an appeal on 18-8-1995 which was considered by the Competent Authority, however, it was rejected.

7. It is further contended by the Corporation that, the concerned workman Kadam died on 4-11-2000. It is contended by the Corporation that, after 5 years of imposition of penalty of removal from services on the workman, said Sangathana had on 19-10-2000 cannot raise an industrial dispute on the alleged "wrongful", illegal and unjustified action of removal of the concerned workman. It is not explained as to why the concerned workman kept silent for 5 years and waited to file the present Reference. It is further contended that, the Reference has been made after more than 7 years from the date of the removal of the concerned workman from services and after 2 years from the date of the death the concerned workman. It is stated that, since the concerned workman was not alive when dispute was raised and when the matter was sent to this Tribunal for adjudication, there is no "industrial dispute" within the meaning of the term under Section 2(k) of the Industrial Disputes Act, 1947 and do not require to consider it.

8. Corporation further submits that, since concerned workman was not alive when the dispute was raised and when Reference was made there cannot be an "industrial dispute" of the concerned workman as contained under Section 2(k) of Industrial Disputes Act, 1947. It is further stated that, the concerned workman died on 4-11-2000 and was not alive on the date when the Reference was sent for adjudication and as such the Reference is incompetent and this Tribunal has no jurisdiction to decide such a Reference. Besides it is contended by the Corporation that, no heirs are brought on record, nobody is representing the concerned workman except "Sangathana" as a result of it is contended that, the concerned workman is not alive and nobody is representing the concerned workman except Sangathana and then the question will be to whom the benefit will be given if the reference is allowed? So it is submitted that, on all these grounds alone the Reference require to be rejected.

9. Rejoinder is filed by the Sangathana at Exhibit 7 stating that, the allegations made by the 1st Party in its written statement are not admitted to it and submit that, the Sangathana has right to raise a reference even after

the death of the concerned workman Kadam. It is further contended that, since there was discrimination between Gaikar and Kadam and no reason is given as to why there was such a disparity when both were involved in the same case Kadam is entitled to get benefit. It is further contended that, Kadam was then acquitted by the Criminal Court and as such this type of benefit should be extended to Kadam.

10. In view of the above pleadings Issues were framed at Exhibit 18 were recasted at Exhibit 25 which I answer as under :

ISSUES	FINDINGS
1. Whether this Tribunal has jurisdiction	No
2. Whether this Reference hit by limitation and bad in law on the grounds pleaded by first Party and not tenable?	Yes
3. Whether First Party has good reason to take action against Workman Kadam under the challenge?	Yes
4. Whether said is legal?	Yes
5. Whether case of Kadam and Gaikar were not dealt at parity with each other and discrimination is shown?	No
6. What relief concerned workman's heir can claim?	Does Not arise.
7. What order?	As per Order below.

REASONS :

ISSUE NO. 1 :

11. It is the case of the Management that, the concerned workman Kadam died and was not alive when Reference was made or even dispute was raised. Hence, dispute does not fall under definition of "industrial dispute" and this Court has no jurisdiction to decide dispute of dead person. Whereas case of the Sangathana is that, dispute can be raised of a person though he is not alive. Hence we have to go through the definition of Section 2(k) of the Industrial Disputes Act, 1947 which reads as under :

"Section 2(k) : "Industrial dispute" means any dispute or difference between employers & employers, or between employers and workmen, or between workman and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person."

12. Definitely underlined word "any person" will not apply to dead person and as such said provision

cannot be made applicable to the dead person in the present case.

13. Admittedly the concerned workman Kadam for whom Sangathana is fighting was not alive when reference was made. When Kadam was not alive when Reference was made, then how can 'industrial dispute' be raised and how it can fall under Section 2(k) of the Industrial Disputes Act, 1947 and under the given definition? Besides it is stated that 'industrial dispute' expects that, it should be relating to 'any person'. Here Kadam died admittedly before Reference was made. So he cannot be called as 'any person' as expected. Definitely Kadam who has died cannot fall under the definition of 'person'. Besides no heirs were brought on record till written statement filed by the 1st Party.

14. It is a matter of record that, Sangathana tried to bring on record wife of the concerned workman on record as heir of Kadam by filing an application at Exhibit 22 on 7-6-2007. It is pertinent to note that, however, the concerned Applicant of Exhibit 22 was not examined and she did not step into the witness box. Besides Corporation examined its witness Uma N. Narvankar and filed her affidavit, a Exhibit 28, in lieu of her examination-in chief and against that no evidence was led by the Sangathana. So all this reveals that, dispute of dead person cannot be filed as industrial dispute.

15. Moreover, there is a provision under Section 10(8) of the Industrial Disputes Act, 1947 which permit to bring heirs on record stating that, no proceedings pending before Labour Court or Tribunal in relation to an industrial dispute shall be abated merely by reason of death of any of the party to the dispute being workman and as such the Labour Court, Industrial Court shall complete such a proceeding and submit its Award to the appropriate Government. If at all that is so, then how dispute of a dead person can be considered? Besides question arises if at all dispute of dead person can be raised by any body then what was the necessity of incorporating Section 10(8) of the Industrial Disputes Act, 1947 empowering Reference to proceed with the help of heirs of a dead person, if he died during the pendency of the Reference? Here Kadam died long back before Reference was sent. Section 10(8) permit Reference to proceed of a dead person who died during the pendency of the Reference. It does not mean that, Reference of dead person can be filed and proceeded as per Section 10(8) of the Industrial Disputes Act, 1947. So according to me Reference itself is not tenable at all. Since it is a Reference of a dead person who died before Reference was made and whose case does not fall under Section 10(8) of the Industrial Disputes Act, 1947. So I conclude that, this Tribunal has no jurisdiction to try this Reference and answer this issues to that effect.

ISSUE NO. 2 :

16. This Reference was made after the death of the concerned workman Kadam and that fact is not disputed

by the Sangathana. When Reference is made after the death of the concerned workman and when no heirs were brought in the reference itself or demand of heirs of deceased workman were not at all in the reference definitely impleading wife of deceased, that too before this Tribunal, who is not at all a party in the Reference is beyond limitation and bad in law. If at all Sangathana was interested in fighting the case of concerned workman then it ought to have raised the dispute involving that lady as a beneficiary to the dispute. But here it is pertinent to note that, there is no Reference of any of the heir of the deceased Kadam till 2007 though Reference is of 2002. So I conclude that, Reference is hit by limitation about Reference and as such the reference is bad in law.

ISSUES NOS. 3 To 5 :

17. It is the case of the 1st Party that, it had reason to take the decision and its action against the concerned deceased workman Kadam is legal. Whereas case of the Sangathana is that, there is disparity in the decision taken by the LIC against Kadam and Gaikar who were involved in the same dispute and the same charge.

18. It is matter of record that, the suspension of Gaikar was withdrawn and then he retired. No doubt suspension of Kadam was not withdrawn as happened in the case of Gaikar. But according to LIC there is no provision of proceeding against the retired person like Gaikar. Whereas Kadam was alive. Since he was in the employment so it proceeded against Kadam. Only disparity according to me appears about his suspension and not proceeding against Gaikar during that period though 1st Party proceeded against Kadam for the same charges and incident. In fact it ought to have been challenged by "Sangathana" at the appropriate time. Now, as stated above, Kadam was not alive when Reference was sent. He was not "person concerned" when Reference was sent for adjudication. Even his heirs were not brought on record nor claim statement filed by heir. In the Reference which came here for adjudication later heirs of the concerned workman are brought on record which has no meaning. In fact, a person who is interested ought to have been brought as a party to the dispute when dispute was raised by the Sangathana. But here Sangathana did not take care of it and go on fighting and it is not made known for whom it is fighting and by filing Exhibit 22 they tried to bring wife of deceased Kadam on record as his heir. So according to me dispute of this type, which in fact does not alive of the concern workman does not cover dispute of "any person" does not invite me to decide against dead person. Besides by deciding this Reference, the heirs of the deceased concerned workman Kadam are not going to gain anything. If at all there was disparity the Sangathana, should have challenged it at appropriate time. Now it is making capital of disparity. It is not shown by Sangathana that how one can be tried even after retirement? The case of the 1st Party Corporation is that, there was no provision to proceed

against the retired person during that period. Same is not disputed or challenged by the Sangathana.

19. Besides enquiry was conducted against the concerned workman and in the enquiry the concerned workman was found guilty of the charges. The charges leveled against him were proved and accordingly he was convicted by the 1st Party. It is not shown as to how it is not just and proper. It is stated that, confessional statement of the concerned workman, involved in the Reference, was taken under coercion. It means that Sangathana admits that, there was a confessional statement of the concerned workman who admitted the charges. When there was a confessional statement of the concerned workman relying on that 1st Party Corporation had acted, in my considered view for that Sangathana has to blame itself and cannot blame 1st Party Corporation. Besides there is no substance in the allegations of Sangathana in claim statement which enable it to show how Mrs. Kadam suffers due to the decision of the 1st Party Corporation? It did not make out the case in what way now Kadam can be compensated after the death of the concerned workman? All this reveals that, 1st Party Corporation has reason to act upon the findings of the Enquiry Officer since charges against the concerned workman were proved and on his admission itself. When concerned workman admitted his guilt and when there was evidence against him and when Sangathana is not taking anything about it. I conclude that there was reason for 1st Party to take action against the concerned workman Kadam and under Section 5 of the Industrial Disputes Act, 1947 it does not require any interference. So accordingly I answer these issues to that effect.

19. In claim statement no relief was sought by the Sangathana for legal heir of the concerned workman Kadam or when it was brought here by Exhibit 22. Even in that, no case is made out by Smt. Kadam for that lady who is wife of the deceased of the concerned workman. Sanastha is not making any specific case for heirs of the deceased workman who is made party in the Reference. According to me after the death of the concerned workman when said dispute was before the Conciliation Officer and afterwards it was sent here by the Central Government for adjudication it cannot be called as a 'dispute' as the concerned workman was not alive at the time of making reference. When dispute was not allowed question does not arise to give any relief to the heirs of such a dead person. So I conclude that no relief can be granted to the legal heir of the deceased person.

20. In view of the discussions made above Reference deserve to be rejected as it is not tenable. Hence, the order :

ORDER

Reference is rejected with no order as to its costs.

A. A. LAD, Presiding Officer

Bombay,

31st March, 2009.

नई दिल्ली, 10 जून, 2009

क्र.अ. 1889.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार आई.डी.बी. आई बैंक ऑफ इण्डिया के प्रबंधन के संबंध विवादों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या 2/2004) को प्रकटित करती है, जो केन्द्रीय सरकार को 10-6-2009 को प्राप्त हुआ था।

[सं. एन-12025/01/2009-आईआर(बी-II)]

राजेन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 10th June, 2009

S.O. 1889.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 2/2004) of the Central Government Industrial Tribunal/Labour Court Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of IDBI Bank of India and their workman, which was received by the Central Government on 10-6-2009.

[No. L-12025/01/2009-IR(B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Shri VED PRAKASH GAUR, Presiding Officer

Dated the 19th day of September, 2008

L.C.L.D. No. 2/2004

Between

Sri N. Amber Singh
S/o Kishan,
C/o H. No. 2-2-1137/8/1/B/1,
New Nallamanna,
Hyderabad-500 044

...Petitioner

AND

1. The Director,
The Jawaharlal Nehru Institute for
Development Banking (JNIDB),
Gachibowli
Rangareddy District.
2. The Chairman,
The Industrial Development
Bank of India, IDBI Tower,
Cuffie Parade,
Bombay-400 005.

... Respondents

APPEARANCES

For the Petitioner : M/s. B.G. Ravindra Reddy & B.
V. Chandra Sekhar, Advocates

For the Respondent : M/s. C. Niranjana Rao & M.
Subramanya Sastry, Advocates

AWARD

The case was taken in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in 1997 (3) LLJ Supplement, page 1141 in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. The Petitioner filed this petition against the Respondents questioning the action of the Respondents in terminating him instead of absorbing as a regular employee. He submits that he was appointed as a Security Watchman w.e.f. 19-8-1993. He was treated as a contract labourer with the help of a name lending contractor. He submits that as his nature of work is of permanent and continuous nature, he protested for being treated as contract labourer, but he was terminated from service on 15-3-1995. He filed W.P. No. 34943/1997 joining with similarly situated employees, seeking a direction to the Respondent No. 1 for absorption as regular employees of the Respondents. As Hon'ble High Court of Andhra Pradesh directed them to approach appropriate forum, the W.P. was withdrawn and hence, this petition. He submits that his entire period of service was under the Respondent No.1 and not under any contractor. He prays this Court to direct the Respondents to reinstate him as a regular employee with all consequential benefits.

3. As against this, the Respondents filed a counter stating that the Respondent namely JNIDB was set up in the year 1991 by the Industrial Development Bank of India, (IDBI), which is a statutory corporation established under the Industrial Development Bank of India Act, 1964 (Act 18 of 1964). JNIDB is a part of IDBI and has no separate legal status. The R1 submits that they have engaged M/s. Ramkay Security Services and Maintenance Services Pvt. Ltd., Hyderabad for providing security services to the campus of R1. It appears, the Petitioner is one of such contract labourers engaged by the said contractor. His wages and other benefits are paid by the said contractor and there is no employer and employee relationship between R1 and the Petitioner. The Petitioner was never appointed as watchman by the R1 on 19-8-1993 and never terminated from service w.e.f 15-3-1995. It is further submitted that the Petitioner did not submit any document in support of his claim that he worked under the Respondents.

4. Parties were directed to produce evidence in support their respective contentions. Petitioner workman N. Amber Singh filed his affidavit on 17-12-2003. He further filed copy of union demand raised on 16-5-1995 and copy of the order of the Hon'ble High Court of

Andhra Pradesh dated 11-6-2002. The Petitioner was examined in chief on 30-12-2004 wherein he stated the facts mentioned in his petition and marked Xerox copies of two documents. Ex.W1 is the union representation to the Assistant Labour Commissioner (C), RR District and Ex. W2 is the order of Hon'ble High Court of Andhra Pradesh in WP No.34943/1997 dated 11-6-2002. Thereafter, the Petitioner did not appear before this court for cross examination. The case has been pending for Petitioner's evidence since 2005. Ultimately, Petitioner's counsel filed memo dated 27-8-2008 stating that Petitioner does not want to adduce evidence and evidence be closed. Thus, Petitioner's evidence was closed. Respondent also closed his evidence stating that since Petitioner has not adduced any evidence, he is not required to produce any evidence.

5. I have gone through the material available on the record. The Petitioner has questioned action of Respondent in terminating him as security watchman. Whereas the Respondent is challenging the relationship of workman and employer between Petitioner and management. The management has challenged that the Petitioner is not engaged by them, but he is the employee of contractor. Then, in that case, it is the duty of the Petitioner to prove and establish the relationship of workman and employer between him and the Respondent. Since Petitioner has not produced any documentary evidence he has not taken courage to appear for the cross examination instead his counsel has moved application for closing the evidence. This proves that the Petitioner is not able to prove the relationship of the master and servant between himself and Respondent and in the absence of relationship of master and servant the Petitioner is not entitled for any relief and thus, he is not entitled for any award by this Court. Hence, petition is dismissed.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her and corrected by me on this the 19th day of September, 2008.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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WW 1: Sri N. Amber Singh	NIL
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Documents marked for the Petitioner

Ex W1: Copy of the union representation to the Assistant Labour Commissioner (C), RR District

Ex. W2: Copy of the order of Hon'ble High Court of Andhra Pradesh in WP No. 34943/1997 dated 11-6-2002.

Documents Marked for the Respondent

NIL

नई दिल्ली, 10 जून, 2009

का.आ. 1890.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया चैन्सई के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चैन्सई के पंचाट (संदर्भ संख्या 9/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-06-2009 को प्राप्त हुआ था।

[सं. एल-12012/35/2008-आई आर (बी-II)]

राजेन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 10th June, 2009

S.O. 1890.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 9/2009) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Central Bank of India, Chennai and their workman, which was received by the Central Government on 10-06-2009.

[No. L-12012/35/2008-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Tuesday the 26th May, 2009

Present : A. N. JANARDANAN, Presiding Officer

Industrial Dispute No. 9/2009

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Central Bank of India and their Workman)

BETWEEN:

Sri B. Dayalan : Petitioner/I Party

Vs.

The General Manager : Respondent /II Party
Central Bank of India,
Zonal Office 48/49,
Montieth Road, Egmore
Chennai-600008

APPEARANCE

For the Petitioner : M/s. K.M. Ramesh

For the Management : M/s. T.S. Gopalan & Co.

AWARD

The Central Government, Ministry of Labour vide its Order No. L-12012/35/2008-IR (B-II) dated 26-08-2008

referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

"Whether the action of the Management of Central Bank of India in not treating the service of 14 years 8 months of the employee as 15 years or the purpose of granting pension is justified? What relief the workman is entitled to?"

2. After the receipt of Industrial Dispute, the referred ID was taken of file as ID 9/2009. Both sides entered appearance through their respective counsel.

3. When the ID stood posted for filing, their statements of claim with relevant documents, list of reliance and witnesses, the learned counsel for the petitioner/1st party filed a memo praying that the ID may be disposed of since he has been advised to take up the issue relating to pension and provident fund before the High Court of Madras instead of pursuing the above ID. It is seeking a liberty to be reserved to the 1st party to seek redressal of his grievance before the High Court.

4. The learned counsel for the Respondent endorsed his no objection to the request of the petitioner.

5. In the circumstances, the ID is to be disposed of as above.

6. In the result leaving the petitioner to pursue the issue relating to grant of pension and provident fund to be agitated before the High Court without entering into a decision on the reference, the ID is closed as not pressed.

7. The memo is recorded.

8. The reference is disposed of accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 26th May, 2009)

A.N. JANARDANAN Presiding Officer

Witnesses Examined :—

For the I Party/Petitioner : None

For the II Party/Management : None

Documents Marked :—

On the Petitioner's side

Ex. No.	Date	Description
	Nil	

On the Management's side

Ex. No.	Date	Description
	Nil	

नई दिल्ली, 8 जून, 2009

का.आ. 1891.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूको बैंक, ग्वालियर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 290/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-6-2009 को प्राप्त हुआ था।

[सं. एल-12012/196/91-आई आर (बी-II)]
राजेंद्र कुमार, डेस्क अधिकारी

New Delhi, the 8th June, 2009

S.O. 1891.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.290/97) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure, in the Industrial Dispute between the employees in relation to the management of C/o UCO Bank, Gwalior and their workman, which was received by the Central Government on 8-6-2009.

[No. L-12012/196/91-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No CGIT/LC/R/290/97

Presiding Officer : Shri Mohd. Shakir Hasan

The President,
UCO Bank employees Union (MP),
C/o UCO Bank, Sarafa Bazaar Branch,
Gwalior (MP) Workman/Union

Versus

The Asstt. General Manager,
UCO Bank, Regional Office,
Arera Colony, BhopalManagement

AWARD

Passed on this 26th day of May, 2009

1. The Government of India, Ministry of Labour vide its Notification No. L-12012/196/91-IR (B-II) dated 10-10-97 has referred the following Dispute for adjudication by this tribunal :—

“Whether the demand of the Union that Shri M.S. Singhal is eligible for the benefits under the staff Cir. No.52/79, Dated 25-10-1979 and therefore, is entitled for preponement of the joining date is legal and justified? If so, to what relief the said workman is entitled ?”

2. The case of the applicant in short is that the applicant No. 1 Murarilal Singhal was temporarily appointed as clerk from 21-8-71 to 30-6-73 in the United Commercial Bank, now known as UCO Bank for 564 days and was

lastly relieved on 30-6-73. Thereafter Shri Singhal was appointed on the post of Clerk-cum-Assistant Cashier in UCO Bank vide Order dated 4-5-81 and he joined on 7-5-81 and since then he is continuously working in UCO Bank. Presently he is posted at Cancer Hospital Extension Counter of Naya Bazar Branch, Gwalior as a Clerk-cum-Cashier.

3. The further case of the applicants is that the non-applicants issued a circular No. 52/79 dated 25-10-79 whereby it was decided to give the benefit of earlier temporary service. In the said circular, the date of joining of permanent post of the Bank is said to have been preponed by the aggregate number of days of temporary service put in by the workman concerned between 1-1-66 and the date of his joining on permanent basis. The monetary benefit of annual increment and the seniority of service are to be preponed. It is stated that the applicant No. 1 had no knowledge of the said circular at the time of joining. It is stated that he is entitled to the benefit of preponment according to the said circular. It is also stated that similarly Mr. G.S. Bhatia got the benefit of the said circular and his back period of temporary service was preponed. It is submitted that reference be decided in his favour.

4. the non-applicants/Respondents have contested the case by filing written statement by way of reply in the case. The case of non-applicants inter alia, is that it is admitted that the applicant No. 1 was in temporary service of the Bank till 30-6-73. Thereafter the applicant Mr. Singhal filed an application before the Assistant Labour Commissioner (Central), Bhopal for providing him service in the Bank. During course of conciliation proceeding, he made request for fresh appointment with terms and conditions. It is admitted that he was appointed a fresh on 4-5-81 vide letter No. VIG : OTH : 319:81 dated 4-5-81. It is admitted that a Bank's circular No. 52/79 dated 25-10-79 was issued for the benefit of those employers only who were working with the said bank at that point of time as regular employee. In the said circular, the last date of submission of applications to supply as per circular was 15-12-1979 and the applications received thereafter was not be considered under any circumstances. The applicant No. 1 was not in service at that time as such, the circular was not applicable to him. On the other hand, Mr. G.S. Bhatia was in service and he complied as per circular in time as such he got the benefit of circular. His case is different than Mr. Bhatia. It is submitted that as per terms and conditions of his fresh appointment and as per circular of the Bank, he is not entitled to get the benefit of preponement. It is submitted that the reference be answered in favour of non-applicant/Respondents.

5. On the pleadings of both the parties, the following facts have been admitted by them.

1. It is admitted that the applicant No. 1 Murarilal Singhal was temporary appointed and in service in the Respondent Bank till 30-6-73.

2. It is also admitted that the applicant No. 1 Mr. Singhal was subsequently appointed on the post of Clerk-cum-Cashier in the Bank, now known as UCO Bank on the regular post on 4-5-81 and is still working at Naya Bazar Braveli, Gwalior.
3. It is also admitted that non-applicants/ Respondents Bank issued a circular L. No. 52/79 dated 25-10-79 whereby it was decided to give the benefit of earlier temporary service.
4. It is also admitted that Mr. G.S. Bhatia, employee of the said Bank got the benefit of the said circular.

6. The applicants have adduced oral and documentary evidence in the case. All the documents filed by the applicant No. 1 are admitted by the Respondents Management which are marked as Exhibit 2/10 to 2/39. The Respondents/non applicants have not adduced any oral evidence. They have filed two documents which are admitted by the applicants which are marked as Exhibit M-1 and M-2.

7. Now let us examine the documentary evidence adduced on behalf of the applicants in order to decide the point for consideration. Exhibit 2/10 is the reference order by the Ministry of Labour, Govt. of India, New Delhi to the CGIT, Jabalpur for deciding the dispute. Exhibit 2/12 to 2/33 are letters of the Bank, by which he was appointed temporary clerk on purely temporary basis from 21-8-71 to 30-6-73. This fact is also admitted by the Respondents/management. Exhibit 3/35 is the appointment letter dated 4-5-81 of Applicant No. 1 by which he was appointed on regular basis as a Clerk-cum-Asstt. Cashier and was posted at Naya Bazaar, Gwalior. This fact is also admitted by the Respondent/management. Exhibit 2/36 to 2/38 are the order of the Hon'ble High Court, Jabalpur whereby the Hon'ble Court directed the Respondent Bank that Respondent may consider the desirability of giving benefit of the circular to the applicant failing which the applicant would inform the Union of India for taking such decision as is permissible under Law. Hence the reference is filed. This document is also admitted by the management.

8. Exhibit 2/34 is the circular dated 25-10-79 through which the applicant is claiming preponement of his joining and also his seniority. This document is also admitted by both the parties. The circular shows that these employees who were appointed in the Bank in the subordinate or clerical cadre as permanent employee will be given the benefit of the period from 1-1-66 of temporary service in the same cadre. The circular further shows that there was a rider that how long this circular would remain valid. The said circular runs as follows—

“it should be strictly understood that no application received after 15th Dec. 1979 will be considered under

any circumstances. It is also understood that with the grant of these concessions, the question of benefit for prior periods of temporary appointment to all employees stands fully and finally settled.”

This circular clearly shows that this benefit was only available to those employees of the Bank who were in Permanent service before 15th Dec. 1979. Thereafter this circular appears to have been of no effect after 15-12-1979 and was not applicable. The applicant No. 1 Murarilal Singhal was not in permanent service before 15-12-1979 and therefore the benefit of this circular is not applicable to him even though it was not in his knowledge..

9. The learned lawyer for the applicants submitted that similarly Mr. G.S. Bhatia was given the benefit of the circular and his service was preponed. He has referred Exhibit 2/39. This shows that he was in permanent service since 19-1-1971 and 46 days was preponed. This shows that he was in service 15-12-1979. His case is not applicable and is not similar to his case.

10. One witness is also examined on behalf of the applicant. WW-1 Murarilal Singhal is applicant No. 1, he has proved his documents which are also admitted by the Respondents/Management. The relevancy of those documents have already been discussed earlier. There is nothing in his evidence to show that the said circular is applicable to him. His evidence is also not sufficient to prove his case.

11. On the other hand, the management has also filed two documents in the case. Exhibit M-1 is an undertaking of the applicant No. 1 filed before the Bank at the time of fresh appointment on 4-5-81. This is filed to show that the applicant No. 1 had taken undertaking that he would not claim of any kind with the Bank of his earlier service. Exhibit M-2 is the letter of the management to the applicant No. 1 regarding his appointment with terms and conditions. That he would not claim past temporary service. This clearly shows that at the time of fresh appointment, it was settled between the parties about the terms and conditions of his service. These documents further show that the claim of his service for preponement is not tenable.

12. Considering the discussions made above, the reference is answered in favour of the Respondents/management and against the applicants. Accordingly award is passed in favour of the management and against the applicant without costs.

13. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 8 जून, 2009

क्र.आ. 1892.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केस्ट्रोल इंडिया लि. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 2, मुम्बई के पंचाट (संदर्भ संख्या 2/17/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-06-2009 को प्राप्त हुआ था।

[सं. एल-39011/02/2003-आईआर(बी-II)]

राजेन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 8th June, 2009

S.O. 1892.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 2/17/2004) of the Central Government Industrial Tribunal/Labour Court No. 2, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Castrol India Ltd. and their workman, which was received by the Central Government on 08-06-2009.

[No. L-39011/02/2003-IR(B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2, MUMBAI**

PRESENT: A. A. LAD, Presiding Officer

Reference No. CGIT-2/17 of 2004

Employers in relation to the Management of
M/s. Castrol India Limited

The Head Employee Relations,
M/s. Castrol India Ltd.,
Technopolis Knowledge Park,
P.O. Box No. 19411, Mahakali
Caves Road, Chakala, Andheri (East),
Mumbai 400093

....First Party

V/s.

Their Workmen

The Secretary,
Mumbai Port Trust Dock & General
Employees Union, Port Trust
Kamgar Sadan, Mazgaon,
Mumbai 400010

....Second Party

APPEARANCE

For the Employer : Mr. G. L. Goyil, Advocate.

For the Workmen : Mrs. Gayatri Singh,
Advocate.

Date of reserving the Award: 26-12-2008

Date of passing the Award: 2-1-2009.

AWARD

The matrix of the facts as culled out from the proceedings are as under:

1. The Government of India, Ministry of Labour by its Order No. L-39011/2/2003-IR(B-II) dated 31st March, 2004 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute this Tribunal for adjudication:

"Whether the action of the management of Castrol India Ltd. in closing down their establishment at White House, Walkeshwar, Mumbai and not providing the employment to the 14 regular workmen viz. S/Shri S.R. Banavadikar and 13 others (list annexed) at any other place of their business is legal and justified? If not, what relief these 14 workmen are entitled to?"

2. Claim Statement is filed by General Secretary of Union at Exhibit 6 making out the case that, the concerned Workmen, whose list is enclosed with the Statement of Claim at Annexure-I, were working with the 1st Party for last many years. They are designated as Peons, Watchmen, Pantry Boy and Senior Clerks. The details of employment of concerned employees they working as permanent employees in the employment of the 1st Party are also mentioned in Annexure-I annexed with Statement of Claim.

3. 2nd Party further submitted that, all these employees were working as permanent employees in the employment of the 1st Party. It further submitted that, on or about December, 2002 the 1st party started its new office at Andheri and have shifted 250 employees working in different branches at Walkeshwar, Worli, Tardeo and Nariman Point throughout the city of Mumbai to its newly acquired Andheri office and all the employees who were working alongwith the concerned workmen are shifted to the said Andheri office. It is contended by the Union that, however, the concerned workmen were not shifted to the said Andheri office and were kept idle at their work place at Walkeshwar. It is further submitted by the Union that, the employees were given the option to accept transfer or they were asked to take the voluntary retirement scheme. However, the concerned workmen were not given any such option of working at Andheri office and left with no option but to take voluntary retirement. It is submitted that, the 1st Party was after these employees asking them to accept the Voluntary Retirement Scheme and the employees were pressurized by the 1st Party either to opt for the Voluntary Retirement Scheme or to give resignation. It is further submitted by the Union that, though the 1st Party is not offering work to these employees, so far they are making payment of the salary to these employees but no work is being provided to these employees. Union further submitted that the 1st Party is having sufficient work to

provide to the concerned employees but in spite thereof 1st Party is not providing any work to these concerned employees. Union further submitted that, the 1st Party is engaging employees through contractors at its Andheri office for doing the work which was being done by the workmen concerned in their Walkeshwar/Worli office and 1st Party is engaging the services of the contractual employees through one New Industrial Security Agencies Pvt. Ltd. and M/s. C.B. Richard Ellis. Union further submitted that, the work of Peons, Watchmen and Clerks is available but the 1st party is not providing the same to the concerned workmen though 1st Party has engaged 26 employees to do the work of Securities, and the Clerks through Peons contractors at Andheri and that, the 1st Party is also engaging the Securities through the Contractors at its Patalganga Factory and Wadala Factory. Union submitted that, all the work force doing the work of Security at Patalganga is employed through contractor whereas some employees are employed at Wadala through the contractors. Union submitted that, there is sufficient work for providing the same to the concerned workmen but since 1st Party is interested in getting rid of the employment of these employees, they are not providing the same to the concerned workmen. Union reiterated that, the employees concerned in the present reference were working along with the other employees whose services are shifted from Walkeshwar and other branches to Andheri. Union further submitted that, the 1st Party is manufacturing various products-oils and lubricants used for running automobiles and other machines. Union further submitted that, their office at Walkeshwar was doing the work as Head office and all the work of correspondence etc. in respect of the Factories of the 1st Party is being done from the Head office. Union submitted that, on 2nd January, 2003 a notice for closing the establishment situated at Walkeshwar was given by the 1st Party company to the Senior Inspector, Shops & Establishments "D" Ward, Nana Chowk mentioning that:

"We have now closed our office located at 'White House', 91, Walkeshwar Road, Mumbai 400 006 and shifted to the new Premises at Technopolis, Knowledge Park, Chakala, Mahakali Caves Road Andheri (East), Mumbai 400 093."

It is further submitted by the Union that, it raised a demand for providing work to the employees and the said notice was brought to the knowledge of the Conciliation officer. In reply to the said dispute raised by the Union on behalf of the employees concerned, the Management of the 1st Party mentioned that, they have no work to provide to these employees and came out with the explanation that now it is not possible for it to give the work to the employees. However 1st Party admitted that, outside agency is being engaged and the work is out sourced by it. Union further submitted that, the 1st Party is in fact trying to retrench the services of these employees by

giving the excuse that they have no work for the workmen concerned in the present reference. Union further submitted that 1st Party is employing more than 100 employees for the purpose of carrying out its activities. It is further submitted by the Union that, it was necessary and binding on the 1st Party to take permission from the appropriate Government before taking any action either the of closing down establishment or retrenching the services of the employees and it was under legal obligation of complying with the provisions of Section 25-O and 25-N of the Industrial Disputes Act, 1947. Union submitted that, 1st Party has not taken any such permission before sending the letter of closing of the establishment. Union submitted that, when the issues were raised by it on behalf of the concerned workmen, 1st Party has come out with the excuse that, the Bomb blasts in the city and with the impending "Ganpathy festival" celebrations, the Police authorities have put Mumbai city on "high security alert and that, the management has decided to temporarily close down its old office premises at 'White House' Walkeshwar with effect from Monday, September 1, 2003 till further notice and has mentioned that, Because of the said fact the 14 staff members need not report for duty and they will continue to get their normal applicable wages nor it will affect their normal service conditions of the employees. Union further submitted that, in spite of all these facts, the fact remains that, the employees are not provided with the work by the 1st Party till date and the employees are kept idle. It is also submitted by the Union that, the , said action on the part of the 1st Party of not providing work to the employees and keeping them idle and declaring closure by mentioning it as temporary closure, the management is victimizing the workmen concerned and pressuring them for tendering resignations and accepting Voluntary Retirement Scheme. Union further submitted that, the provisions of the Industrial Disputes Act, 1947 makes it abundantly clear, what is meant by 'closure' and the entire action of the 1st Party is illegal and is not tenable in law. It is contended by the Union that, the work of the management still exists and it has sufficient work for full time employment of the concerned workmen. It is an admitted position that, the work of the Management which was done by the workmen concerned in the present dispute has been given to the contractors under the guise of outsourcing and modernization. Union submitted that, it is an admitted fact that, the work of the Management still exist and only the place of work is changed. It is further submitted by the Union that the 1st Party has transferred some of the employees from other branches i.e. M.S. Godown to Walkeshwar and Worli to Walkeshwar and they are also not allowed to resume duty now by giving false reason of temporary closure. It is further submitted by the Union that, the Industrial companies situated at Andheri Technopolis Knowledge Park are having their own security arrangement and even the 1st party is having its own Security Guards employed through contractors.

1st Party has also engaged the employees through the contractors for doing the dispatch work. Union submitted that, the 1st Party is singling out the concerned employees by retaining them at 'White House' and not providing them work, the management of 1st party is discriminating between two sets of employees and are, also changing the condition of service of the concerned employees by not providing them work and asking the employees employed through contractors to do work of these employees. It is submitted that, the entire action on the part of the 1st Party is illegal, void and amounts to breach of service conditions of the concerned employees. Union therefore, prayed that, the Reference be allowed and the 1st Party be directed to provide the regular work to the employees involved in the present reference and not to force the concerned employees to accept the Voluntary Retirement Scheme or to tender resignation from the employment of the 1st Party, with further directions to 1st party not to change the service conditions of the employees concerned existing from the date of Reference till disposal and to declare that the action of closure termed as temporary closure by the 1st Party is illegal and direct the 1st Party to withdraw their Notice of closure dated September 1, 2003 and provide employment to the concerned workmen.

5. This is disputed by the 1st Party by filing written statement at Exhibit 7 referring to some material facts and contending that, the 1st Party is a public limited Company engaged in the manufacture and sale of lubricant oils and owns and controls five factories located at Ballabgard (Delhi), Paharpur (Near Calcutta), Tondiarpet (Chennai), Patalganga (near Mumbai) and Soilvassa (Union Territory of Darda and Nagar Haveli) and three registered offices at Northern Region Office at New Delhi, Eastern Region Office at Calcutta and Southern Region office at Chennai and had its Registered and Corporate office at White House, Walkeshwar Road, Mumbai in which about 160 employees including Management staff were working at the said premises as well as its other three offices located at Mumbai at Nariman Point, Tardeo and Worli. It has also a technology centre at Wadala in Mumbai. It contended that, it took on lease new office premises to house all its four offices of Mumbai at one location in "Technopolis Knowledge Park, Andheri (East), Mumbai", visualizing that, some employees at the White House and its other offices in Mumbai may not be gainfully employed once all the four offices get integrated at one new location at Technopolis Knowledge Park at Andheri (East), it announced Voluntary Retirement Scheme (VRS) covering both Management - and non-management staff from 30-10-2002 for a limited period of one month by offering liberal compensation upto Rs.7/- lakhs. Under the said Scheme, 29 Management staff and 7 non-management staff opted for voluntary retirement. Out of the seven Non-management staff who opted for voluntary retirement, 4 staff members were from White House and the rest 3

staff members from Western Region Mumbai office at Commerce Centre.

6. 1st Party further contended that, accordingly these 4 offices, along with the staff, shifted in a phased manner between December, 2002 and February 2003 to the new location at Andheri and as a result thereof the entire operations carried out at these offices also shifted to the new premises and all the employees excepting 14 employees at White House (who could not be gainfully employed) were also shifted to the new premises. It is further contended by the 1st Party that, shifting of the business operations from the said four office premises did not result in the closure of the business of the Company but only in shifting its business operations to the said newly acquire premises at "Technopolis Knowledge Park at Andheri (East)". It submitted that, however it could not shift its 14 workmen from its Registered and Corporate office at White House for the aforesaid reasons in respect of whom Reference has been made, those 14 workmen comprise 6 Security Guards, 5 Peons, 1 Pantry boy and 2 Clerks.

7. 1st Party further contended that, new office premises at "Technopolis Knowledge Park at Andheri (East)" is an ultra-modern multi storeyed commercial complex housing commercial offices of other companies is managed by a Housing Society formed by the various companies occupying the premises including the 1st Party Company, Central Security Services have been provided by the Housing Society for the entire building which has obviated the substantial need for the individual companies for engaging separate security personnel. The said security services are provided by a highly trained and experienced agency by engaging competent security personnel to take care of security services of the building. 1st Party further contended that, however, one of the security agencies which had been engaged by the 1st Party for providing security at its Vaswani Chambers, Worli much before that office was shifted to Andheri deployed a skeleton of four/five security personnel at the new office from November, 2002 when the new premises were being furnished to safeguard the materials/equipment of the 1st Party. These personnel are specially trained and experienced in providing specialized security services inside the Company's premises at Technopolis Park. 1st Party submitted that, the requirements of the said security personnel may further come down to one/two persons once the "ACCESS CONTROL SYSTEM" which monitors entry and exit of only authorised persons gets stabilized and becomes fully functional at the said premises. In view of the said factual position the 1st Party has not been able to gainfully utilize the services of six watchmen working at its said new premises, however these security personnel have not been put to any monetary loss as they continue to be paid their normal wages.

9. 1st Party further submitted that, there are 5 Peons and one Pantry boy who were working at its old office at

Walkeshwar. The work of the said peons comprised carrying papers from one desk to another in the same premises, filing papers, carrying cheques for signatures of Managers etc. After shifting of the office to the new premises, the need for carrying papers from one table to another by peons has been completely obviated in view of the 1st Party having provided pigeon holes in the new office premises where each Executive is expected to place the relevant papers/envelopes in the relevant pigeon holes of the concerned department and the concerned Executive of each of these departments are required to pick up the mails from their respective pigeon-holes at periodic intervals during their duty hours and the filing of papers is done by the concerned Executive or his Secretary. 1st Party also contended that, then need for Peons to serve coffee/tea has also been obviated as the Company has provided adequate number of coffee/tea vending machines and drinking water dispensers at different locations in the new office premises and the concerned Executive in the new premises and the concerned executives uses the vending machines/dispensers to get coffee/tea and water on his own. Filing work is also done by the Secretary of the concerned employee. Thus the need for providing 5 Peons and 1 Pantry boy at the new office premises has been eliminated. 1st Party submitted that the said work which was earlier performed by the Peons/Pantry boys to be unproductive and non value added, no contract labour has been engaged by the 1st Party for the said work at its new premises.

10. 1st Party further submitted that, two Clerks viz. S.R. Banvadikar and Mr. Sushil Padwal, from its old office premises could not be transferred to the new premises since Mr. Banvadikar was principally engaged on work relating to imported materials at the port terminals. Mr. Banvadikar's job was to co-ordinate with the Bankers and obtain certified copies of the documents of imported materials. However, the said work which was handled by him does not exist now as the Bankers themselves arrange for the despatch of the imported documents directly to it and the demand drafts are prepared based on an electronic system and therefore the need by the 1st Party to undertake the said work has been obviated completely. So far another Clerk Mr. Sushil Padwal is concerned he was attending the work relating to the dispatch of inward and outward mails. It is contended by the 1st Party that, the same agency viz. M/s. Avon Solutions Ltd. which had been engaged and had been handling similar work at its office at Vawani Chambers, Worli before the said office was shifted to the new premises continues to handle the said work by the same person of the 1st Party's new office at Andheri. 1st Party submits that, therefore, it has not engaged any new agency for doing the said work. It is contended by the 1st Party that, Agency M/s. Avon Solutions Ltd. has experience in handling much larger volumes of incoming and outgoing mails and also provides the necessary Management Information Reports (MI Reports) and the personnel who had been engaged by the

said Agency for performing the said work were found to be of superior caliber and possessing higher efficiency in their work hence 1st Party has not engaged any new agency or any new personnel through that Agency for doing the said work.

11. 1st Party further submitted that, the 2nd Party Union by its letter dated 19th December, 2002 addressed to the Assistant Labour Commissioner (Central) raised a dispute alleging that, instead of giving work to the said 14 regular workmen, 1st Party had employed contract labour in their place to its changed place of business at Andheri where these concerned 14 workmen are ready and willing for their posting and has alleged that, it is in violation of Section 9-A the Industrial Disputes Act, 1947 and the said dispute was admitted by the Assistant Labour Commissioner (Central) by his letter dated 13/20th January, 2003 for Conciliation.

12. 1st Party further submitted that, since the said 14 concerned workmen could not be gainfully employed at the new office premises they continued to report for recording their attendance at White House i.e. at their old office premises where however no work was available to them no any gainful employment could be offered to them, however, they continued to get their normal wages. 1st Party submitted that, though both the parties made several efforts under bipartite as well as tripartite for resolving the said dispute raised by the Union on behalf of the workmen but unfortunately the matter could not be resolved. 1st Party further submitted that, while the dispute was pending before the Conciliation Officer Union filed Writ Petition No. 2710 of 2003 before the Hon'ble Bombay High Court which was disposed of on 4th March, 2004 directing Central Government (Respondents No. 2 and 3 therein) to consider the failure report submitted by the Conciliator and take a decision within a period of two weeks from the date of the order about making a reference of the demands raised by 14 concerned workmen, till the time Central Government takes a decision 1st Party (Respondent No.1) shall not terminate the services of the concerned workmen, in view of the statement made by Mr. Cama, Learned Counsel appearing for 1st Party (Respondent No.1) no directions were issued with regard to the premises at Walkeshwar and protection against termination of services granted to the workmen in question shall continue till the decision of the Central Government is communicated to the Petitioner Union and a period of four weeks thereafter to enable the petitioner Union to make appropriate application to the concerned Court/Tribunal to which Reference, if any, is made or to adopt other appropriate proceedings.

13. 1st Party further contended that, the Central Government, Ministry of Labour, thereafter by its order dated 31st March, 2004 made the present Reference to this Tribunal for adjudication.

14. In view of the aforesaid facts and submissions, 1st Party submitted that, it has not closed down its establishment at White House, Walkeshwar but has merely shifted it to the new premises at "Technopolis Knowledge Park at Andheri (East)" at which the Company has secured much bigger accommodation to house all its four offices in Mumbai at one location with a view to integrate its operations to achieve better efficiency and economy. 1st Party submitted that, it is not in a position to gainfully utilize the services of any of the 14 concerned workmen for the reasons stated hereinabove. 1st Party further contended that, has been making earnest efforts to find out a mutually acceptable solution to this problem which meets the requirements of the concerned workmen as well as of the 1st Party, however, in the meanwhile all the 14 concerned workmen have been getting their normal wages since the 1st Party shifted its business operations from White House to the new location at Andheri.

15. 1st Party submitted that, 14 concerned workmen whose details have been submitted by the 2nd Party belong to the categories of Peons, Watchmen, Pantry boy and senior clerk, however, the description of their duties as mentioned in the annexure attached with the statement of claim is not fully admitted by it. 1st Party submitted that, the employees at Serial Nos. 1 and 2 were doing clerical work and employees at Serial Nos. 3, 4, 5, 6 and 7 were working as Peons though their nature of work described in the Annexure attached with the Statement of claim is not fully correct, employees at Serial No. 8 is a Pantry boy and those at Serial Nos. 9 to 14 are Watchmen and their nature of duties as stated are by and large correct. 1st Party admitted that, the concerned 14 workmen are its permanent employees. 1st Party denies that in or about December, 2002, 250 employees working at their Corporate office in White House and its other offices at Worli, Tardeo, and Nariman Point were shifted to the centrally acquired office at Andheri (East). It submitted that, all the employees working in the said office except said concerned 14 employees were shifted to its new premises at Technopolis Knowledge Park at Andheri where its business operations have been shifted between December, 2002 to February, 2003 for the aforesaid reasons and though the said employees were kept idle at White House after shifting of the office they continued to get their normal wages.

16. 1st Party further submitted that, the said 14 concerned workmen were found to be surplus to its requirements by the 1st Party as they could not be gainfully deployed at the new premises at Andheri. They were offered VRS and the said offer was made even after the business operations had been shifted to new premises and even during the course of the Conciliation proceedings since it could not shift these 14 concerned workmen to its Andheri office because of its inability in finding gainful employment to them in the new premises.

17. 1st Party submitted that, while offering VRS benefits, it did not exert any pressure on anyone of them as the very nature of the said Scheme was voluntary which

fact was made abundantly clear to the workmen and the Union repeatedly, while seeking their cooperation for getting the said dispute resolved to the mutual satisfaction of the parties. It party submitted that, it could not also gainfully utilize their services at any of its Plants outside Mumbai as the nature of work performed by these employees is not undertaken at other Plants. The security services at these Plants is provided by the Specialised Private Agencies. 1st Party submitted that, it could not offer work to these employees since it is not in a position to provide gainful employment to them.

18. 1st Party also denied the allegations made by the Union that, it has engaged contractor's workmen at its Andheri office for doing the work which was being done by the said 14 employees at Walkeshwar/Worli office, out of the 5 peons mentioned in Annexure-I, four were working at Walkeshwar and one Peon viz. Mohite was working at Worli office. 1st Party reiterated that, the work performed by them is not required to be done at the new office premises at Andheri and that no contractor's workmen are engaged by the 1st Party at Andheri for doing the work which was being done by the said five Peons. The New Industrial Security Agencies Pvt. Ltd. (NISA) was already engaged to provide security services at its Worli office and the said security agency continues to provide skeleton security staff at the new office premises at Andheri. 1st Party further contended that it has not engaged any new Agency for providing security services and that M/s. C.B. Richard Ellis is another agency which is proficient in providing facility management services like housekeeping, cleaning, dusting, carpet cleaning etc. which work was not performed by any of these 14 permanent workmen and the therefore Reference made by the Second Party to the said agency is totally irrelevant. 1st Party further contended that, the allegations of the Second Party that, the work of Peons, watchmen and clerks is available but the 1st Party is not providing the same to the concerned workmen is not correct for the reasons explained hereinabove. 1st Party also denied that it has engaged 20 employees to do the work of security, Peons, Clerks through contractors at Andheri and it contended that this is only a figment of imagination of the 2nd Party. 1st Party contended that, while the security at its Patalganga Plant is undertaken by security agency ever since the Plant commenced its operations in 1984, the security services at Wadala Technology Centre are being managed by watchmen employed by the Company and there is no security service on contract at the said premises. 1st Party, therefore, contended that, it doesn't have sufficient work for providing the same to the concerned workmen as stated hereinabove. 1st Party also denied the allegations made by the Union that, 1st Party is interested in getting rid of the said employees from its employment and is not providing work to the said workmen.

19. 1st Party further contended that, the nature of work performed by the said 14 workmen is not connected with any work of other offices of the manufacturing units of the 1st Party. 1st Party also denied that, the 1st party had put up a notice dated 2-1-2003 for closing the

establishment at Walkeshwar and contended that, it has only issued a letter to the Senior Inspector, Shops and Establishments informing him that it had closed its office located at White House and shifted the same to the new premises at "Technopolis Knowledge Park at Andheri (East)" and had requested for cancellation of the license at the said premises and had applied for registration of the office at new premises because all the business operations at White House had shifted to the new premises and therefore such an intimation was required to be given to the concerned authorities and 1st Party further contended that, it did not close down its business but is continuing the said business from the new premises. 1st Party also contended that, an outside agency which has been providing a skelton services at the new premises was the same old agency which had been rendering the said services at Worli office and that, the contentions of the Union that 1st Party is employing more than 100 employees for carrying out its activities at the new premises is not correct as the number of workmen employed at the new premises is much lower than 100. 1st Party further contended that, the contentions of the Union that it was necessary and binding on the management to take permission from the appropriate Government before taking any action either by closing down the establishment or retrenching the services of the employees is wholly misconceived. 1st Party contended that, it has neither closed down its establishment nor retrenched any employees. It has only shifted its business operations from White House to the new premises and that it does not amount to any closure of the establishment. Moreover, the inability in providing work to the 14 workmen does not amount to retrenchment as it continues to pay them their normal wages ever after its business operations have shifted to the new premises and the 1st Party was not in a position to offer gainful employment to them at the said new premises. 1st Party contended that, reference made by the 2nd Party to the provisions of Section 25-O and 25-N of the Industrial Disputes Act, 1947 is wholly misconceived and irrelevant as the said Sections have no application to the facts of the present case. It further submitted that, a similar contention was also raised by the Union in its Writ Petition (Lodging) No. 213 of 2004 before the Hon'ble High Court and the same was not taken into cognizance and no specific direction was given by the Hon'ble High Court as will be evident from its order dated 4-3-2004. The reference made to the notice dated 1-9-2003 is totally misconceived as the intention of the 1st Party in asking the said 14 employees not to report to White House for marking their attendance was in their own interest and for their safety as Mumbai city was put on high security alert by the Police Authorities after the incidents of bomb blasts and the 1st Party did not want these employees to visit the said office for marking their attendance and thereby expose themselves to the apprehended risk and danger. The inability of the 1st party in providing work to the said employees has been fully explained and is for bonafide reasons and has not been causing any injustice to the said employees. 1st Party also denied that it is victimizing the said workmen and pressuring them to tender their resignations and accept VRS and that the work for these

workmen still exists and it is sufficient for full time employment of the workmen concerned in the present dispute or that, the work which was done by the said workmen has been given to the contractors under the garb of out-sourcing and modernization as alleged. 1st Party further submitted that the contentions of the Union that, 1st Party transferred some employees from other branches viz. M. S. Godown to Walkeshwar and from Worli to Walkeshwar is also misconceived as the true facts have not been stated by the Union. It also pointed out that, M.S. Godown was closed down by the 1st party in 1998 and three security personnel who were found surplus as a result of the said closure were transferred to White House and the said decision was taken by the 1st Party in the interest of the employees. 1st Party denied that, it has given any false reason to temporary close down its Walkeshwar office and that, the industrial offices situated at Andheri Technopolis Knowledge Park are having their own security arrangement as alleged. 1st Party contended that Society has provided security services for the whole building. Over and above the said arrangements, in so far as the 1st Party is aware the Commercial offices located in the said premises are having a skeleton security services through specialized private security agencies. 1st Party further contended that it has only continued the services of the Security Agency at the new premises and has not engaged a new agency and it could not utilize the services of the Despatch Clerk for the reasons stated hereinabove. 1st Party also denied that, it is employing approximately 26 employees to do the work which was being done by the said 14 workmen concerned in the present dispute. It also denied that, the 1st Party has singled out any of the employees concerned by retaining them at White House, Walkeshwar and not providing them work or that, it is discriminating between two sets of employees and is changing the conditions of services of the employees as alleged. 1st Party also denied that, its action is illegal, void and amounts to breach of service conditions of the concerned employees as alleged.

20. 1st Party therefore submitted that, there is no justification or substance in the present reference and the Union is not entitled for any reliefs as sought and prayed that, the same be dismissed.

21. Union filed rejoinder at Exhibit 12 repeating the averments made by it in the Statement of Claim and denying the contentions made by the 1st Party in its Written Statement. Union contended that, from the statements made by the 1st Party clearly shows that, they are intending to make changes without giving notice of change in the service conditions of the employees. It is submitted by the Union that, the 1st Party has contended that because of the changes in the working pattern and technology work is being done more efficiently and hence the employees who were doing the work in the company who are concerned in the present reference have become unproductive and non value added. It is submitted by the Union that, it is abundantly clear that, when 1st party is trying to make rationalisation, standardization of improvement of Plant and techniques it should not result in termination/retirement of the employees and that, the very fact that

the 1st party is not allowing these employees to work and showing that they have become unproductive and non-value added and hence work cannot be provided to them itself shows that the changes are made illegally. It is stated that, 1st Party should have given notice of change and sought permission from the appropriate authority. Union submitted that, the contentions of the 1st party that, it has provided adequate number of coffee/tea vending machines and drinking water dispensers at different locations in the new office premises and the concerned Executive irrespective of the level to which he belong uses the vending machines/dispensers to get tea/coffee and water on his own shows that, the 1st Party shows that the 1st Party is making improvement in technic. Union submitted that, 1st Party is trying to rationalize, standarise and doing improvement of plant which is likely to result in retrenchment of the employees involved in the reference and the same is done without giving notice of change as per the provisions of Section 9-A of the Industrial Disputes Act, 1947 which is illegal. Union further contended that, the 1st party has recently engaged employees through NISA i.e. New Industrial Security Agency for providing security to its office, plant and machinery hence the contentions of the 1st party that, new employees are not employed and they are continuing with the earlier contract agencies is not correct and its contentions that, they are employing 4/5 security personnel at the new office premises from November, 2002 when the new office premises were being furnished to safe-guard the materials/equipments are also false and baseless. Union submitted that, by any improvement on the part of the 1st Party should not result in .retrenchment of the services of its existing employees. Union further submitted that whichever system, either 'Access Control System' or any other system, the 1st Party may try to bring it should not result in termination/retrenchment in the number of permanent employees. Union further submitted that, contentions of the 1st Party clearly show that, they are intending to reduce the number of persons employed in their occupation or process of department or shift resulting in the termination/reduction in the number of the permanent employees which is being done without following the provisions of Section 9-A of the Industrial Disputes Act, 1947. Union further submitted that, the contentions of the 1st party that, Mr. Banvadikar and Mr. Padwal were principally employed to do the work relating to imported materials at the port terminals and to coordinate with the Bankers and obtain certified copies of the documents of imported materials and attending to work relating to the dispatch of inward and outward mails etc. is false and baseless since their appointment letters do not mention anywhere that, they are employed to do any particular nature of work but it shows that, they are employed as Clerk-cum-typist and Clerk and they were posted in the departments where the 1st Party was in need and now as per the contentions of the 1st Party it is clear that their work is being given to outside agencies like M/s. Avon Solutions Ltd. and that their personnel were found to be superior caliber and possessing higher efficiency in their work is totally false

and baseless. Union submitted that during the tenure of their services they worked sincerely and no memo/warning was issued to them and now the 1st Party is making false statement that the personnel of this contract agency are found to be of superior caliber and possessing higher efficiency.

22. Union submitted that, the contentions of the 1st Party that, 5 Peons and 1 Pantry Boy were doing the working of carrying papers from one desk to another in the same premises, filing papers, carrying cheques for signature of the Managers etc. and after shifting of the office to the new premises, the need for carrying papers from one table to another by peons has been completely obviated in view of the 1st Party .having provided Pigeon holes in the new office premises where each Executive is expected to place the relevant papers/envelopes in the relevant pigeon holes of the concerned department and the concerned Executives of each If these departments are required to pick up the mails from their respective pigeon holes at periodic intervals during their duty hours and the filing of papers is done by the concerned Executive or his again Secretary, also is improvement in the work proposed by the 1st Party. Union further submitted that, the Peons were not doing the work of only giving mails and filing papers. Union further submitted that, even when the mail is kept in the respective pigeon holes, there requires a person to sort the mail and keep it in the required pigeon holes which clearly shows that the work is in existence. Union submitted that, in any case such illegal change cannot result in the reduction of man power by way of retrench and that no Notice of Change is given by the 1st Party for such a change. Union further submitted that, the contentions of the 1st party that, the concerned 14 employees could not be gainfully employed at the new office premises is totally false and baseless since 1st Party has engaged employees through contractors to do the work of these employees, viz. M/s. C.B. Richard Ellis, NISA, Avon Solutions Ltd. etc. to do the work of the permanent employees. Union submitted that, the work of permanent employees cannot be allowed to be given to the contract employees by reducing the strength of permanent employees and that too illegally without complying with the due process of law and 1st Party has effected illegal changes without complying with the provisions of law and are also reducing the strength of the permanent employees. Union further submitted that, the contentions of the 1st Party that it is making earnest efforts to find out a mutually acceptable solution is also a false and baseless statement.

23. In view of the above pleadings Issues were framed at Exhibit 42 which I answer as follows :

ISSUES	FINDINGS
(i) Whether second party proves that, first party has closed its activities?	Yes, as far as Walkeshwar office is concern.
(ii) Whether notice dated 30-8-03 w.e.f. 1-9-2003 is a notice of closure?	Yes, as far as Walkeshwar office is concern.

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|--|---|
| (iii) Whether second party proves that, work is get done of workers by engaging new agencies to deprive the workers? | Yes |
| (iv) Does first party proves that, it just shifted business operations at Andheri (E)? | Not simply shifted business at new office but closed down activities at Walkeshwar office. |
| (v) Does it proves that, it cannot shift workers involved in the reference to Andheri being it ultra-modern managed by a Housing Society formed by various companies whose Central Security Services are provided by highly trained and experienced agency as well as by adopting system of pigeon hole in the new premises and providing vending machines for tea/coffee as well as taking Bankers service? | No |
| (vi) Whether second party is entitled to any relief? | Yes |
| (vii) If yes, in what form? | Workmen remain in the Reference are entitled for continuation in the establishment of 1st Party at Andheri office also. |
| (viii) What order? | As per order below. |

REASONS:

ISSUE NOS. 1 & 2:

24. 2nd Party came with the case that, Workmen involved in the Reference are the members of the Mumbai Port Trust Dock & General Employees Union. The Annexure-I with Claims Statement at Exhibit 6 is the list of Workmen who were not considered by the 1st Party while shifting its business from Walkeshwar to Andheri. Union claims that, 1st Party cannot ignore that. The case of the Union is that they must be engaged on their respective posts.

25. It is stated that, during the pendency of the Reference the Workman shown at Serial No.1, S.R. Banavdikar who was working as a Sr. Clerk and workman shown at Serial No.6 Pradeep Mohite who was working as a Peon, workmen shown at Sr. Nos. 9 to 14 who were working as Watchmen, except Nichare, 1st Party by its applications at Exhibits 28, 30 and 34 requested to delete the names of these employees from the Reference. Since it was not objected by the Union names of i.e. workmen mentioned at Serial Nos. 1, 6 and 9 to 14, except Nichar were deleted from

the Reference by allowing prayer of the 1st Party prayed in Exhibits 28, 30 and 34.

26. Now, Workman Padwal shown at Serial No.2 who was working as a Sr. Clerk, and Workmen shown at Serial Nos. 3 to 5 viz. Hemann Gurav, Sanjiv Pednekar, Workman Suresh Nichar shown at Serial No. 7 and Suresh Shinde working as Peon vis-a-vis Workman shown at Serial No.8 Pradeep Kadam working as Pantry Peon only remains in the reference.

27. According to Union the work of Clerk done by Sushil Padwal, work of Peon done by employees shown at Serial Nos. 3 to 5, 7 viz. Hemann Gurav, Sanjiv Pednekar, Suresh Shinde, Deepak Nichare and work of Pantry boy Pradeep Kadam, shown at Serial No. 8 is still available. Case of the Union is that, 1st Party has number of offices at Mumbai namely Walkeshwar office, Worli, Tardeo and Nariman Point. Now by closing all these offices 1st Party decided to shift its business to Andheri. Though the work of the workers involved in the Reference and who are at present in the Reference ought to have been shifted by the 1st Party are not shifted at Andheri on the guise that work done by them at Walkeshwar office is not available at Andheri office. Since they are not shifted by the 1st Party and they were forced to take VRS and since these workmen did not want to take VRS pressure was put on them to take VRS or to give resignation. As the workers were not being shifted by the 1st Party, the workmen involved in the Reference approached the Union along with other employees. But the Conciliation Officer (Central) could not settle the dispute and submitted failure report. During the pendency of the same, some workmen referred above took VRS, whose names are deleted. Now employee Padwal, Gurav, Pednekar, Shinde, Nachare and Kadam i.e. having Serial No.2, 3 to 5, 7 & 8 remains.

28. Against that, case of the 1st Party is that since there is no work of Clerk, Peon and Pantry at Andheri as well as a Walkeshwar the Workmen who remained out could not be absorbed.

29. Initially 1st Party gave notice dated 30th August, 2003 intimating that, it wants to close down its activities at Walkeshwar and wanted to shift it to Andheri. They also informed that, they are closing activities of Walkeshwar office with effect from 1-9-2003. Since it was not liked by the Union they raised the dispute about move of the 1st Party.

30. As far as closing down the activities of the 1st Party from Walkeshwar office is concerned we find it communicated in the notice dated 30-8-2003 w.e.f 1-9-2003. I think there appears no dispute, as from evidence which is now on record it appears that, the activities of the 1st Party are entirely stopped from Party Walkeshwar office of the 1st Party. Even it is not the case of the Union that, some activities are still going on at Walkeshwar office. Even it is not case of the Union that, some workers are engaged at Walkeshwar office and the claim of the concerned workmen is ignored and purposely they are prevented from reporting for duty at Walkeshwar office. So the evidence brought on record by both and even case made out by them clearly

reveals that 1st Party has closed its entire activities at Walkeshwar office and nobody is working at Walkeshwar office for the 1st Party.

31. The stand taken by the 1st Party that, the work of the employees who now remained in the Reference, is not available at Andheri office and so they cannot be shifted. That means the source of work which was available to these workmen who remained in the reference at present, is as good as, closed down. That means, there is no work for these workmen at Walkeshwar office. The Ld. Advocate for the 1st Party referred to judgment of Division Bench of our Hon'ble High Court in the case of Biddle Swayer Ltd. v/s Chemical Employees Union published in 2007 ILCLR page 193 where Division Bench of our Hon'ble High Court considered various judgments on the point of closure and concluded that :

"closure means closing down permanently of the source of employment of the workmen i.e. place where the employment is actively generated"

So from the wording of this ratio it is clear that, closure comes in picture as and when source of employment of the Workmen is closed down i.e. the place where employees were working and from where actually work was generated. As far as these Workmen who remain in the reference are concerned, as per the case of the 1st Party, their work at new office premises is not available. That means the work which was done by them at Walkeshwar office was only available at Walkeshwar office and not available at Andheri. That means it was Walkeshwar place which was generating work for these workmen and 1st Party took stand that said work is not available at new place at Andheri. So, as far as these workmen and closing down of activities by 1st Party at Walkeshwar is concerned, it is nothing but a 'closure' and according to various rulings referred by Division Bench of our Hon'ble High Court while concluding the subject observed as under:

"closure means closing down permanently of the source of employment of the workmen i.e. Place where the employment is actively generated"

It reveals that, closing down permanently the source of employment of Walkeshwar office where they were working, and since that place was generating the work to these Workmen who remained in the Reference, the ratio laid down by Division Bench of our Hon'ble High Court (Supra) helps in concluding that it is the 'closure' of business or work by 1st Party at Walkeshwar as well as it is stoppage of work for ever for these employees. As per the case made out by the 1st Party, work which was done by these workmen is not available at Andheri. So far as these workmen who remained in the reference are concerned, it is the total closure of business as far as these employees are concerned because they cannot be accommodated in new place though literally 1st Party is carrying out its activities from new place i.e. from Andheri. So I conclude that, 1st Party has closed its activities from Walkeshwar and as far as its activities at Walkeshwar are concerned, notice dated 30.8.2003 giving effect from 1-9-2003 admittedly discloses that, 1st Party has completely closed down its entire

activities which were done by it from Walkeshwar office. So I answer these issues to that effect.

ISSUE NOS. 3 TO 5 :

32. 1st Party made out the case that, the work which was done by these Workmen is not available at Andheri office, so they could not be shifted to Andheri office. It is the case of the 1st Party that, since its new office premises at "Technopolis Knowledge Park at Andheri" is an "ultra-modern multi-stored commercial complex" housing commercial offices of several other companies is managed by a Housing Society formed by the various companies occupying the premises, including 1st Party, Central Security services have been provided by the said Society for the entire building which has obviated the need for individual companies for engaging separate security personnel and said services are provided by highly trained and experienced Agencies and the requirement of security personnel may further come down to one/two persons once the "ACCESS CONTROL SYSTEM" becomes fully functional at the new premises. It is also the case of the 1st Party that, at new premises it has provided vending machines for tea and coffee vis-a-vis availing vendors services does not permit 1st Party to utilize the services of these workers. Whereas stand of the 2nd Party is that, work which was done by these workmen remained in the reference yet subsists, available at Andheri office. There are no specialized persons as contended by the 1st Party under the guise of "ultra-modern" multi-stored commercial complex housing commercial offices is concern, of several other companies, which is managed by a Housing Society formed by the various companies occupying the said premises and that the Central Security Services are provided by with which provided by highly trained and experience agencies. In fact there is no highly trained and experienced persons than these Workmen remained in the reference. The work which was done by these concerned workmen at Walkeshwar is still subsists and available at Andheri. On the contrary case of the 2nd Party is that, said work is get done by the 1st Party by engaging contract workers of very low category and on very low scales. Under the guise of "ultra-modern management" of the Housing Society formed by various Companies at Andheri, the workmen remaining in the Reference are deprived of their right to work. Since these workmen did not opt for VRS or did not resign, 1st Party compelled them to take VRS. It is case of the Union that, purposely they are not accommodated at Andheri office under the guise of "ultra-modern management" run at Andheri office.

33. For that, 2nd Party placed reliance on the depositions of the employee who remained in the reference viz. Suresh Shinde by filing his affidavit at Exhibit 44 in lieu of examination in chief, where he states that, he was appointed on 1-12-1989 in the Canton and was confirmed on 7-7-1990. He further states that, one Mr. Chowdakar working as a Peon retired in 1944. He was promoted and confirmed on his post as a Peon. He further states that, in February, 2002 1st Party shifted entire work of Walkeshwar with its 250 employees working at various places

i.e. Walkeshwar, Worli, Tardeo and Nariman Point and closed its said office and shifted to Technopolis Knowledge Park at Andheri (East). He states that, he and other 14 employees who were initially included in the reference, were not shifted to Andheri under the guise that, the work done by them is not available at present in Andheri office. He alleges that, work done by them is attended by Contract workers. He states that, option for VRS or transfer of the workers to Andheri were given to other workers but it was not made available to these workers, and they were forced only to take VRS, who were involved in the Reference. He states that, work of 5 workers involved in the reference is very much available in new office at Andheri. He states that, 200 employees were working at Walkeshwar during his tenure at Walkeshwar. He states that, 13 permanent workers were working as Peons at that time. He states that, they were distributing the mail, preparing covers for the letters to dispatch, taking weight of each cover, affixing stamps on it, preparing dispatch slips, dockets of the postal articles, visit post offices/telegraph office, packing of parcels, Xerox work, keep track on courier/registered letters and handing over mail to courier boys, operating franking machines etc. including deposit of money to the post office and all other jobs relating to Peons. He states that, his work does not involve carrying papers from one table to another. He states that, 3 dispatch Peons are engaged in their place supplied by M/s. Avon Solutions Pvt. Ltd. and M/s. C. B. Richard Ellis and these Peons are doing the work of the same nature. He further states that, work of Account Department and Share Service Centre, work of mail room operation and Provident Fund, Salary section and marketing work at Andheri were shifted to Wadala. He further states that, the work of dispatch is done by the workmen engaged through contract workers of M/s. Lobo Interim Staffing. He states that, he was not paid from March, 2005 and as a result of that, his service conditions have been adversely altered by the decision of the 1st Party. He further states that, initially he was transferred to C & F Agent at Rajpur (Punjab) operated by a third party and thereafter to Paharpur (West Bengal) just to victimize him. According to him said transfer was done by 1st Party just to pressurise and compel him to either to report there or to take VRS. He states that, work done by him is very much available at Andheri office. In the cross he states that, he is aware that VRS was declared by the 1st Party in 2002. He also admits that, 160 employees are shifted from various Bombay offices to new premises at Andheri. He states that, 200 employees were shifted but he and workmen involved in the reference were not shifted to Andheri office. He states that, he was providing water to the staff at times but not regularly. He states that, he is aware of M/s. C. B. Richard Ellis contractors work at Andheri office. He denies that, said M/s. C. B. Richard Ellis is provided services like serving of sweeping, cleaning laterines and toilets and dusting office premises. He admits that, that work is not of the Peon. He admits that, he is aware of M/s. Lobo Interim Short Staffing but denies that, said Lobo Interim Short Staffing used to supply services for short period of experts like Accountants, Data

Entry Operators and other work. He admits that, 1st Party has shifted the Accounts Department pertaining to Provident Fund etc. at Wadala. He admits that, 1st Party has shifted the Accounts Department pertaining to Provident Fund, Gratuity etc. to Wadala. He admits that there was no clause in his appointment letter, 'not to transfer him'. He admits that, when he was transferred, it was made clear to him that, his name will remain even in the muster roll at new place and he will get the same salary which he was getting at Walkeshwar. He admits that, he was intimated to report at Paharpur Factory (Calcutta) instead of earlier transfer place as per Hon'ble High Court's order. He denies that work, of 3 peons is done on computer. He denies that, there is no work of Peon at new place. He also denied that, the work of franking machine is reduced at new place. Then 2nd Party examined Mr. Pradeep G. Kadam by filing his affidavit in lieu of the examination-in-chief at Exhibit 47, who is also one of the victim of the decision of the 1st Party who states that, he joined 1st Party in 1990. He states that, he joined as a Peon and was confirmed on the said post. He states that, he was supplying tea, coffee, drinking water to the Director, Manager, visitors and during meetings and in various Board meetings. He states that, he was also doing the work of cleaning utensils of tea, coffee, vending machines and water etc. He states that, his said work is still available at Andheri. He states that, said work is being done by Pantry boy. He denies that, due to introduction of vending machines said work is not available at Andheri office. He states that, Pantry boys are supplied by Contractors M/s. C. B. Richard Ellis at Andheri. He states that, he was doing that work during his tenure at Walkeshwar and claims that, said work still subsists and available at new office. He claims that, his salary was not paid from March, 2005. He states that, he was sought to be transferred to C & F Agent, Patna (Bihar) and then to Tondiarpet (Chennai) as per High Court order. Then in the cross he states that, he was aware of Head Office of the 1st Party located at Walkeshwar. He states that, he was aware of the VRS introduced by the 1st Party in October, 2002. He states that, he is aware that 200 employees are shifted by 1st Party from Walkeshwar office to Andheri. He states that 14 workers involved in the Reference were not considered by the 1st Party for Andheri office and were not shifted as others were shifted. He states that, he was cleaning glass alongwith cups of officers as a canteen boy. He states that, the said work was done by him at Walkeshwar in both the buildings. He states that, 4 vending machines were available at Walkeshwar, 2 in the main building and 2 in Annexure building. He states that, he has visited the Andheri office and saw coffee being prepared in the new premises on vending machines. He states that, 2 machines are installed at new place. He denies that, employees of Contractors M/s. C. B. Richard Ellis are doing the work of sweeping, cleaning dusting and cleaning of carpets etc. He claims that, he has seen 2 persons working as canteen boys. Then he was questioned why he was not reporting to transferred place to which he replied that, the transfer was not the service condition, so he did not report to transferred place.

34. Then 2nd Party examined Sushil D. Padwal at Exhibit 57 who states that, he is of 36 years old. He joined first Party in July, 1989 as a Dispatch Clerk. He states that, he alongwith other workmen involved in the reference is permanent employee. He states that, in the appointment orders of these workers, there is no transfer clause. He states that, all the employees of Walkeshwar office numbering about 200 employees alongwith employees from other office at Bombay, excepting 14 employees involved in the Reference, were shifted to its new premises at Andheri. He states that, he is aware 1st Party has taken on lease the office at "Technopolise Knowledge Park at Andheri". He states that 14 employees involved in the reference did not took VRS as they wanted to work. He admits that, he was transferred to Rohtak (Haryana State) but he did not report on transfer saying that, there is no transfer clause in the appointment letter. He states that, said transfer letter was issued during the pendency of the proceedings therefore application under Section 33-A of the Industrial Disputes Act, 1947 was filed. He claims that, he was paid upto March, 2005 though there is order to maintain status-quo. He claims that transfer of the employees who are remaining in the reference were illegal transfers and 1st party cannot transfer them. He claims that, one Clerk, one Peon and 1 Pantry Boy are engaged, as contract workers, by the 1st Party through contractors viz. M/s. C.B. Richard Ellis and M/s. Avon Solutions Ltd. at Andheri. He claims that, work of Clerk, Peon and Pantry boy is still subsists and available and the work is get done by the 1st Party from contractors viz. M/s. C.B. Richard Ellis and M/s. Avon Solutions Ltd. at Andheri. In the cross he states that, he is member of the Mumbai Port Trust Dock & General Employees Union. He denies that, he was transferred as per implied service conditions. He denies that, he falsely deposed that, 1st Party forced him to take VRS. He denies that, he cannot do the work on the computer. He denies that, work done by him and the work done by the remaining workman is not available at Andheri office. He states that, he is educated upto S.Y. B. Com. When question was put to him "whether he has informed about his said qualifications" to which he replied that, there is no such demand made by the 1st Party. He also states that, he has computer knowledge but he has not informed since it was not asked by the 1st Party. He denies that, the work done by the workers remaining in the Reference is not available at Andheri.

35. Then 2nd Party examined number of other witness and by calling them at Exhibits 71, 77, 82, 90, 100 and 101. Witness, Sanjay Abhinash Shukla, called by 2nd Party is examined at Exhibit 71, who states that, he is working with C.B. Richard Ellis which in short is called CBRE. He states that, he does not know whether, CBRE was informed to commence work for 1st Party from 25-11-2002 about front office management, telephone

operation, pantry services, mail room operation and operation of general office matter with the office counter service. He states that, CBRE was providing services of house keeping at Andheri establishment from March, 2003. He admits that, the number of workmen mentioned in at Serial No. 2 of Annexure A produced at Exhibit 70 is a figure of workers engaged by sub-contractors with the 1st Party. He states that, these sub-contractors include Shiv Shakti, Total Solutions and Master Polishers are among them. He states that, CBRE got licence for the first time in 2005. He admits that, as per Annexure B-3 Serial No. 5 produced with Exhibit 70 the CBRE was providing services of Pantry. He states that, employees shown at Serial No. 4, 16 and 17 from page No. 6 of Exhibit 62 are the names of the employees of Pantry services provided by CBRE. He admits that, names of these workers are shown in the salary registers at Serial Nos. 3, 10 and 11 of Exhibits 66, page 27. He admits that, number of employees shown is 16. He admits that, there is no names of the courier services in the said register employed by Master Polishers at Andheri. Then 2nd Party examined another witness, from Master Polishers, at Exhibit 77 by name Rajesh Shyamlal Bohra who states on oath that, he is serving with Master Polishers in the Accounts Department. He states that, workmen shown by Master Polishers are working in courier services with 1st party. Their names are given in the attendance register and salary register filed by it at Exhibit 76. He admits that, said employees were doing out door work for 1st Party at Andheri from 9.00 a.m. to 5.00 p.m. i.e. for 8 hours. They were getting weekly off i.e. on Sunday with salary slip after deducting Provident Fund and ESI. He states that, they are also getting PL, CL and they are paid approximately Rs. 3000/-per month. He states that, Vijay Bane is doing out door work of Legal Department of 1st party and Abhijit Borkar is doing out door work connected with the Administration Department of the 1st Party. He states that, Sarafaraz Nawaz is doing "out door" work of Finance Department of the 1st Party. He states that, Master Polishers also provide services of House Keeping and Pantry. Then Union examined Venkatesan Siva at Exhibit 82 who appeared for "Avon Solutions" and states that, he is working with 1st Party for last 3 years and visiting offices of the 1st Party. He admits that, the name at Serial No. 1 from the muster roll produced with Exhibit 80 was attending work of mail room activities. He states that, mail room activities include receiving mail, putting dispatch seal on proof of delivery. He states that, person doing such work can open the mail if it comes in name of Company if it comes on any particular persons's name it is sent to that persons's table. He states that, such an entry of mail is made in the mail register maintained by it. He states that, dispatch work is done by putting mail by each and every employee in pigeon hole which is collected at regular intervals. He states that, after collecting the mail

from pigeonholes it is brought into the mail room Data is captured-officials said mail and said work is assigned to the courier who will collect and dispatch it. He states that, when courier person comes to collect the mail it is delivered to the said person. He states that dispatch slip is prepared by Courier company which is simply signed by employee who is attending the said work. He states that, if some mail is to be posted, one person directly go to the post office and drop it. He states that, for Registered A.D./U.P.C. etc. material is prepared by the employee of Castrol and it collects it only and give to the postal authority. He states that, all such work is to be done by all 4 employees mentioned in the muster produced with Exhibits 80. He admits that, its employees working on that post are answerable to any query about correspondence and dispatch of that. He states that, employees working with it must know basic computer. Then 2nd Party examined Monika Verma, at Exhibit 90, Manager (HR) of M/s. Lobo Staffing Solutions Pvt. Ltd. She states that, she knew the nature of work of employees of whose copy of muster and salary register is filed in the Court. She states that, she does not whether Sourab Karekar was employee of CASTROL at wadleshwar what work he is doing there. She states that, this type of work is going on continuously from 2000 till today. She states that their employees are doing work of receiving vouchers and bills for 1st Party on behalf of Lobo. Then 2nd Party examined Clifford D'Souza at Exhibits 100 who is serving with the 1st Party at Wadala Branch, who states that he is serving at Share Services Centre Department. He states that, Saravana Santosh Kamble and Harish Munde are the members of his team. He states that, he is studied upto HSC. He states that, excepts allowances as mentioned against his name of page 111 of Exhibits 88 he does not get any more. He states that, he is doing work of forwarding cheques. He states that, after recording cheque entries he used to put in tray which is lifted by despatch clerk who forwards it to the concerned section. He further states that, after segregating the correspondence he used to put it in the tray. He states that, he used to check the names and addresses on correspondence and put it in the tray which is to be lifted by despatch clerk. He states that, he has got certificate of computer training. Union then examined Hareesh Sadhu Munde at Exhibit 101 who states that, he worked for 15 to 16 years through different Agencies. He states that, for last two years he is working at Wadala centre of CASTROL GLT and in GLT he was doing housekeeping work which includes, cleaning, sweeping etc. He states that, he is doing said work for last 12 to 13-years continuously at Wadala Center. He states that, he was engaged by MAFCO Contractors. He states that he is getting salary of Rs. 3000-4000 per month. He states that, when he joined through Lobo contractors he started working any break. He states that, details given against his name on page 112 of Exhibits 88 are correct.

He states that, there are 20-25 members in his team for doing that work. He states that, his Department receives all samples of chemicals, lubricants etc. from the Lab and Despatch Department. He states that, he used to record entries of it on the computer and prepare format of it. He states that, he was trained by the Company. He states that, he has not computer training certificate to show it. He states that, entire correspondence of Wadala section is kept by the concerned department in the tray. He further states that, after that three samples are sent to Laboratory for test.

36. On that, the Management examined its main witness i.e. V.V. Narayanan at Exhibit 103 who states that, he is serving with the 1st Party as General Manager-Human Resources. He states that, he knows the facts of this reference as well as of the Complaint No.2/2 of 2007 pending before this Tribunal filed by the employees involved in the reference. He states that, out of 14 employees involved in the reference, whose names are given in the Annexure-I to the Statement of Claim, 8 have settled their claims under the Company's Voluntary Retirement Scheme and after giving their dues. 1st Party has given applications to delete the names of the said employees as they are not party in the Reference vis-a-vis beneficiaries of the subject matter involved in the Reference. He further states that, remaining employees could not be accommodated by the 1st Party since it has no work at new place. He states that, at the new premises where its four offices are located is an ultra modern, multi stored commercial complex housing commercial offices of several other companies and is managed by a Housing Society formed by the various companies occupying the premises including 1st Party. He contends that, the said four offices of the Company at Mumbai along with its staff were shifted in a 'phased manner' to the new premises between December, 2002 to February, 2003. He states that, however, 1st Party could not for bonafied reasons shift those employees involved in the Reference. He contends that, the said 6 workmen who remain in the Reference, out of which 5 of them are Peons-cum-Pantry boy's category and one is of clerical category could not be got accommodated by the 1st party in the new premises but were admittedly they were continued to be paid their regular salaries. He states that, work of 4 Peons mainly comprised of carrying papers from one desk to another in the same premises, filing papers, carrying cheques for signature of Managers etc. Now at new premises Company does not require services of these persons as said work is completely obviated in view of the Company having provided pigeon holes in the new office premises where each executive is expected to place the relevant papers and envelopes in the relevant pigeon holes of the concerned Department and concerned Executive/Secretary of each these Department is expected to pick up the mail from the respective Pigeon holes at

periodic intervals during the duty hours and the filing of papers is done by the concerned Executive/Secretary. He further contends that, the need of Peon's services for serving coffee, tea drinking water has also been obviated as adequate number of coffee/tea vending machines and drinking water dispensers are installed at different locations, in the new premises and the concerned Executive irrespective of the level to which they work/belong uses vending machines and water dispensers to get coffee/tea or water. He further contends that, case made out by Union that, number of other contractors are engaged by 1st Party to carry out said work is not correct. He states that, Contractor M/s. C.B. Richard Ellis is engaged by the Company for undertaking Facility Management which comprises house keeping viz. cleaning, dusting, swabbing floors, special cleaning such as shampooing carpets etc. He states that, said work was not done by the employees involved in the Reference. Said work is get done by the 1st Party through the persons engaged by M/s. C.B. Richard Ellis, out of them two are kept in front of the office to provide services at the reception and telephone operation. There is one qualified electrician to attend all electrical and maintenance of electrical equipments like Projectors, telephones, photo copy machine, P.A. System, fax machines and electrical fittings. He further contends that, rest of the workmen perform house keeping job which also includes one chamber maid kept for cleaning ladies wash room and Pantry boys who are assigned for maintenance of tea and coffee machines and also timely replenishment of premix tea, coffee, soup, chocolate, lemon in the vending machines. He contends that, individual employees of the Company whenever they want to take coffee or tea, they have to go to the vending machines to pick up what they want by self service. He contends that, Pantry room keeps only disposable paper cups which are discarded after use and therefore the need of cleaning or washing the tea or coffee utensils has been considerably reduced. He contends that, remaining house keeping boys attend to various jobs on rotation basis to perform dusting of tables and blinds, sweeping of floors, vacuum cleaning of carpets, swabbing of floors, toilet cleaning, wiping of window panes and glass doors, weekly deep cleaning of carpets and scrubbing of toilets, polishing of stainless steel dustbins and chairs, shifting and arranging of chairs in different meeting rooms and shifting of drinking water bottles near the water dispensers and placing it at the top of dispensers. He further contends that, another Contractor i.e. Master Polishers' is engaged by the 1st party for inter city courier service. He states that, the said Contractor undertakes delivery of Company's within the city to various offices like Bank, Insurance companies, Stock Exchange, Legal Advisers, Registrar of Companies, CA firms, Auditors etc. He states that, above work was not done by any of

these concerned workmen who have remained in the reference. He states that, 6th workman viz. Sushil Padwal who was principally attending to the work relating to the dispatch of inward and outward mails could not be gainfully engaged at the new office premises as the Agency viz. M/s. Avon Solutions Ltd. which has been engaged by the Company since May, 2001 at the Company's office at Varwani Chambers, Worli continued to handle the work at the Company's new premises at Andheri. He further states that, the said Agency viz. M/s. Avon Solutions Ltd. has considerable expertise in handling much larger volumes of incoming and outgoing letters with computerization and also providing the necessary Management Information Reports (MIR) every month. He states that, as the performance of the said contractor in handling mail room work was found to be far superior than the work performed by the Dispatch Clerk Sushil Padwal who is one of the workman concerned in the present Reference, who was doing clerical work, company decided to continue the said contractor at its new office at Andheri as well as not to utilize the services of Padwal as the nature of work in the mail room in the new office has undergone major change as compared to the work done by Padwal in Dispatch Department at White House. The mail room operations to-day are completely computerized which means all details regarding incoming and outgoing mails are recorded in advanced software on the computer which helps in providing monthly Management Information Report (MIR). Hence, there is no manual work for Padwal to engage and allow him to report on duty. He further contends that, mail room operation at new premises have been completely computerized by using advanced software which is one of its unique kind in the industry in India. He further stated that, said software is exclusive property of Avon Solutions Pvt. Ltd. and which allows the use of this software by any Company which utilizes their services for mail room operations. He further states that, Padwal never approached the Company saying that, he was interested in computer skill. He states that, there is no work available to the Company for said Padwal and to allow him and to continue. He states that, the nature of work carried out by the said Contractor is highly specialized requiring specific educational qualifications like B.Com., M.Com. or Chartered/Accountant etc. with advanced computer knowledge. None of the workmen who have remained in the Reference has those qualifications and cannot be considered by the Company for utilizing their services. He states that, the Technology Centre at Wadala where research and development activities are done by the Company, in 2003 a part of the finance operations viz. Share Services Centre was shifted to Wadala owing on shortage of space at its Technopolis office which resulted in the transfer of some finance staff to Wadala who were working in the Centre which also

included some team members of M/s. Lobo Staffing Solutions Pvt. Ltd. Those team members were doing specialized activity in the Finance Department which require the use of software for processing bills, payments to vendors, suppliers, transporters, maintenance and management of retrieval funds including investment of those funds as per Government rules. He states that, mail room operations are entrusted to Avon Solutions Pvt. Ltd. and their place of work is Technopolis office of the Company at Andheri where services of the employees who have remained in the Reference could not be utilized. He states that, M/s. Lobo Staffing Solutions Pvt. Ltd. has been engaged by the Company to support the activities carried out in the Share Service Centre. These activities comprises of processing of bills, advising payments, putting data in software etc. which require specific skills and experience and education. He states that, the nature of work performed by Harish Munde who is an employee of M/s. Lobo Staffing Solutions Pvt. Ltd. who has been engaged is primarily that of Receptionist and handling oil samples for testing some of which are of hazardous nature and recording the receipt of oil samples in the computer. He states that, the said work is entirely different work which cannot be done by any of the employees who remained in the Reference. He states that, these concerned workers were transferred to other places but they did not report on duty and as such now they cannot claim wages since they failed to report on duty at new transferred places. Transfer of Padwal by letter dated 28-2-2005 was made initially. He was transferred to Company's C & F Agent at Rohad District Jhajjar (Haryana) and then by transfer letter dated 15.3.2005 he was required to report at the same transferred place but it was not accepted by him. He states that, even Sanjay Pednekar was served with transfer orders dated 28-2-2005 initially and then by letter dated 15-3-2005 to report to Company's C & F Agent at Cuttak (Orissa) which was not accepted by him. Something happened with Suresh Shinde, Deepak Nachre and Pradeep Kadam who also did not report for duty at new places of transfer. All this shows that, they are not interested in the employment, so Company decided to stop their payment which was given as per the Order of the Hon'ble High Court. It is denied by him that they were transferred to the third party. So it is submitted that, employees remaining in the Reference now have no any claim and cannot seek any relief. In the cross he states that, the remaining employees who did not accept VRS were shifted to Andheri except 14 employees involved in the Reference. He admits that, employees involved in the Reference does not accept VRS. He admits that, no notices were given under Section 9-A of the Industrial Disputes Act, 1947 before closing the Walkeshwar office and shifting the business of it to its new premises at Andheri. He admits that, there was no permanent closure of the

activities of the 1st Party. He admits that, complaint filed by the Union before ALC was withdrawn on the assurances given by the 1st Party that, it will not terminate the services of the employees and undertook to continue to pay their wages. He admits that even thereafter these employees were not gainfully employed by them. He admits that, payment of these workers was stopped from February/March, 2005. He admits that, at Andheri office there were various Departments, including mail room operation, Administration Department, Legal Department, Finance Department and Shared Service Centre. He states that, marketing and mail room operation were shifted to Wadala office. He admits that, Andheri office make use of courier service as well as receipt of mail from outside. He also admits that, all sorts of mail are sorted out i.e. outgoing and incoming mail in the Mail Room Department. He also admits that after sorting out the mail it is put in the respective pigeon holes. He states that, many consignments of Andheri office are sent by courier service. He admits that, checking of bills which are received from courier service are done by Company's Administrative Department. He states that, registered letters are sent and received by the office at Andheri. He admits that, entries of out going and incoming letters are maintained. He admits that, acknowledgement cards are prepared and the letters inserted by the various departmental Secretaries. He admits that, besides that, registered letters are sent and received. He states that, employees of qualifications of B.Com., M.Com., C.A. may get salary between the range of Rs.8000/- to Rs.15,000/-. He denies that, persons working at Wadala in the above sections were getting salary in the range of Rs.4000/- to Rs.5000/-. He admits that, Harish Munde was earlier working as Sweeper. He admits that, said Munde was not having Degree or Diploma as Receptionist and Telephone Operator and Computer Operator. He admits that, even said Munde was not having Diploma in Medicine and Lab. Technology. He admits that, work of Telephone Operator-cum-Receptionist was also being done by said Munde for which he was trained by the Company. He admits that, those six workers who have remained in the Reference, were not asked their willingness whether they are ready to take training in Computer or want to take training for the work of Receptionist-cum-Telephone Operator. He states that, the work of receiving mails including work of segregation of mail is also attended at Wadala. He states that, stamping as well as numbering and sorting of vouchers was also attended at Wadala. He states that, work of follow-up of cheques, filing of bills, receiving courier mails, postal mail, Provident Fund work, ESI work, salary work, dispatching of bills to various locations are attended at Wadala office. He states that, he did not know whether Suresh Shinde has done Diploma in Computer Management in 1996. He states that, he is aware that Hemant Gurav was doing

outdoor work which included collecting statements, Debit and Credit advices on behalf of the Company from various Bankers. He states that, he is not aware about the work of Deepak Nichare. He states that, he is aware of page 5 of Exhibit 106 by which Deepak Nichare, Sanjay Pednekar and Hemant Gurav were asked to collect mail from the post office and he is signatory of the said letter. He states that, at Andheri, House keeping boys were employed, who were employed by Richard Ellis, were attending the work of dusting, cleaning, swabbing of premises, carpet cleaning, toilet cleaning etc. He admits that, like Walkeshwar at Andheri, there is separate canteen contractor. He states that, he is not aware whether Padwal completed his education upto S.Y.B.Com. when he was at Walkeshwar office. He states that, he is not aware whether, any memo or show-cause notice was issued to Padwal after he was confirmed in 1989. He states that, qualifications of HSC for Clerical work was necessary at that time. He states that he is not aware whether Padwal is qualified for the said post and after 8 years of service, employee is promoted to the post of Sr. Clerk. He states that, he does not know whether, the said 4 Peons were initially appointed as Pantry boys/canteen boys. He does not know whether, there was any specific qualification for appointment as a Peon. He admits that, those 4 Peons and one Pantry boy who remained in the Reference were not served with any memo or charge sheet after confirmation. He states that, he did not know whether, these four Peons were doing other work besides carrying papers, documents, correspondence to the respective staff. He states that, he has not seen any documents about the work done by these four Peons and Pantry Boy as well as of Sr. Clerk. He states that courier services are being done at Wadala office. He admits that Padwal was discharging duties of checking bills, receiving courier, sending registered letters, preparation of acknowledgement cards and insertion of letters in envelopes as well as work of filing, sending notices, correspondence receipts etc. was also done by him. He also admits that, 4 Peons involved in the Reference when they were working at Walkeshwar office were preparing conveyance expenses for reimbursement for their out door duty work. He also admits that, Master Polishers employs five out door work messengers for out door work and they were doing out door work of Legal Department, Administration Department and Finance Department of 1st Party. He states that, there is no written condition put by Avon Solutions for supplying its software or the condition that, the Company should engage only his contract workers. He states that, he does not know whether, the Company asked Padwal and Suresh Shinde whether they are willing to undergo any training. He states that, the area of Walkeshwar office was about 15000 sq ft and it was suggested that, area of Andheri office is more than 50,000 sq ft. Witness admits that there may be around 37,000 sq ft.

He admits that, there are meeting rooms for Directors and other Executive staff at Andheri office. He admits that, snacks and tea is provided during meeting. He admits that, record is maintained by the Administration Department of the Company at Andheri office. He admits that, Kadam who is involved in the Reference was doing that work at Walkeshwar office. He admits that, Workmen who have been shifted from Walkeshwar to Andheri is not member of the Union. He admits that, 14 workers involved in the Reference are the members of the MbPT Union. He admits that, said Padwal is one of the signatory to the settlement which took place between the Union and the 1st Party. He admits that Union has submitted fresh Charter of Demands after expiry of settlement in June, 2000. He admits that there was no settlement on that demand and proceedings were closed by sending failure report. He admits that, six workmen who have remained in the Reference are covered under the said settlement. He admits that, no other offer was given to these 6 employees except to accept VRS or give resignation. He admits that, the work of these 6 employees remaining in the Reference is being done by the permanent employees and the contract employees of Avon Solutions, Master Polishers, C. B. Richard Ellis at Andheri and M/s. Lobo at Walkeshwar. He admits that, not all the jobs in the mail room operations are not computerized at Andheri. He admits that, not all the jobs are attended by the employees of the above Agencies and denies that, work of these 6 employees is not shifted to Andheri. He admits that, he has no document to show that, these contract workers and permanent workers were not doing all of the work being done by the present workmen involved in the Reference. He also admits that, there is no document brought on record to show that, employees of Lobo are not utilizing computer. He admits that, there is no reduction of work at Andheri as compared to Walkeshwar. He admits that, he has not produced any document to show that, the contract employees engaged by M/s. Avon, C.B. Richards and Master Polishers at Andheri and Lobo at Wadala are highly skilled, qualified and specialized persons. He admits that, these four agencies are still working at Andheri and Lobo is still working at Wadala. He admits that, offer was not made to these employees as to whether they want to work at Andheri? He admits that, even they were not offered to undergo training to work on computers. He admits that, any non-executive staff was transferred from Walkeshwar during the time when these 6 workers were working at Walkeshwar. He admits that, Andheri office is also registered office and Corporate office of the Company and he admits that, office at Patalganga has no separate audited sales and the income from the sales of the products at Patalganga are accounted for in the annual report of the Company. He admits that, wages of these workers are stopped from 17th March, 2005. He admits

that, these 6 concerned workmen did not report on duty at transferred place from 1-5-2005. He admits that, there is no agreement signed between 1st party and the CNF about functioning of CNF. He states that, he has no idea on which basis commission was paid to CNF. He admits that, Company has not produced any document to show that, CNF is part of the 1st Party. He denies that, CNF Agency is not concerned with the activities of the 1st Party. He admits that, workmen who have remained in the reference are not informed that, there work is not satisfactory and denied that these workmen were illegally transferred out of Maharashtra as well as not transferred to Andheri and illegally stopped their salaries. On that 1st Party closed its evidence by filing exhibits at Exhibit 109.

37. Heard 2nd Party's Advocate at length. Perused written arguments submitted by the 1st Party filed at Exhibit 116 and citations at Exhibit 117. Came through the written synopsis of the 2nd Party filed at Exhibit 118.

38. Initially Reference was made about the demand of the Union regarding 34 workmen, copy of which was annexed with the Statement of Claim. During the pendency of the proceedings employees mentioned at Serial No. 1, S.B. Banavalkar who was working as a Senior Clerk and the Workman Pankaj Wadgaonkar working as a Poon shown at Serial No. 6, employees mentioned from Serial Nos. 9 to 14 viz. Jai Narayan B.R. Ramdeo, B.P. Tiwari, K.R. Pawar, D.V. Velur, G. Wansur working as Watchmen subsequently opted for VRS and 1st Party by applications at Exhibits 28, 30 and 34 requested to delete the names of the said employees. On said applications Union has not stated anything. Besides Advocate appearing for Union at the beginning of the arguments conceded that, about 13 employees who have remained in the reference since 13 have opted for VRS. So by passing an order at Exhibits 28, 30 and 34 names of the above employees are deleted from the Reference.

39. With a result of which now the employee of clerical cadre Sushil Babul shown at Sr. No. 2 and employees in Poon category shown at Serial Nos. 3 to 5 and 7, viz. Harant Gaur, Rajiv Bhatnagar, Sushil Bhatnagar, Deepak Nachare, and one person working as Pantry Boy, Pradeep Kadam, shown at Serial No. 1 only remains.

40. Now, we have to see whether work of Poon, Pantry Boy and clerk who remain in the reference is available with the 1st Party who has shifted to Andheri? The stand taken by the 1st Party that, since the work done by these workmen at Waltham is not available including of Watchman and work of other employees who took VRS, management is unable to accommodate them at new office at Andheri. In fact stand of the Management is that, work of Clerks and Poon as well

as work of Pantry Boy is not available for these workmen at new office premises and they cannot be accommodated there.

41. It is a matter of record that, Hon'ble High Court has given protection to these employees restraining Management from terminating their services. As a result of that they are on the muster roll of the 1st Party and they were paid till March, 2005.

42. The stand taken by the Management is that, since work of Clerk, Poon and Pantry Boy is not available at their new premises, it cannot accommodate them at Andheri. Whereas stand of the Union is that, their work is very much available at Andheri and to prove that, Union examined 3 witness out of claimant who claims that, work is available of their category and said work is get done by the 1st Party through various Agencies. Besides Union made efforts in examining Mr. Shale at Exhibit 71 who states that, he is Facilities Executive working for C.B. Bhatnagar Mills which is called in short as CBRE. He admits that, names of the employees working for Courier services are not mentioned in the register produced at Exhibit 46. He states that, work of Courier is available. Then Union examined Rajesh Shyamal Bhatnagar at Exhibit 77 who appears for Master Polishare and was serving in Accounts Department. He states that, employees of Master Polishare are working in courier services and they are doing work of 1st Party. They are attending out door work for the 1st Party and their names are mentioned in the attendance Register and salary register produced at Exhibit 76. He further states that, these employees are getting (approximately) salary of Rs. 2000 to Rs. 4000 per month. He states that, Vijay Bhatnagar is doing outdoor work connected with the administration Department. He states that, Bhatnagar Naresh is doing outdoor work of Finance Department for 1st Party. He further states that Master Polishare provide services of house keeping and Pantry. Then Union examined witness by name Vankar Siva who appeared for Arun Bhatnagar at Exhibit 82 who states that, Mail Room activities includes receiving mail, putting dispatch and on proof of delivery is done there by them for the 1st Party. He states that, person doing that work is opening the mail, if it is coming in the name of the Company, Mail is put in the name of particular person for that is put on the title of that officer. He states that, entry is made and recorded in the Mail Register. He further states that, if such a mail comes in the name of particular officer it is placed before the said officer and the acknowledgment is given by the concerned person for the receipt of the said cover. He states that, dispatch work is done by putting mail by each and every employee in the pigeon holes which is collected at regular intervals. He states that, they are collecting said mail from the pigeon holes. It is brought in the mail room, date is captured of the said mail and it

is assigned to the couriers who will collect and dispatch it. He states that, dispatch slip is prepared by Courier company which simply signed by the employee who is attending the work for the Company. He states that, if some mail is to be posted our person goes directly to the post office and drop it in the post office and for A.D/UCP etc., the material is prepared by the employee of the 1st Party who collect and give the same to the postal authority. He states that, all such work is done by the 4th employee mentioned in Exhibit 80. He states that, our employees who are doing that work are answerable to any query about correspondence and dispatch. Then witness examined by the Union, of the 1st party, is Monica Verma at Exhibit 90 states that, she is working as a Manager (H.R.) with M/s. Lobo. She states that, as per witness summons she has produced copy of Muster Register, copy of Salary Register and copy of Licence issued under CLRA Act and she is working for M/s. Lobo. She states that, workmen of Lobo are doing work with the 1st Party, She states that, she know the nature of work done by the workmen of Lobo whose copy of Muster Roll and Salary register are filed. Further she states that, she know person by name Clive D'Souza shown at serial No. 13 of page 111 in the document called as "Register of Wages" who is doing work in Share Service Centre Cell, She states that, as Manager, her job is to look after the service conditions of the employee who join with Lobo. She states that said work is done continuously from 2000. Then Union examined witness by name Clifford D'Souza at Exhibit 100. He states that, he is serving with 1st party at Wadala from 2005 continuously and doing work in Share Service Centre Department. He States that, Saravana, Santosh Kamble and Harish Munde are members of his team. He states that, he is educated upto HSC. He states that, he is doing work of lifting vouchers and bills from the tray received in the office. He states that, he is maintaining record of it. He states that, he is doing work of followup of cheques for authorization from Accountants and Manager. He states that, he is putting up it i.e. cheques and letters in tray which is lifted by the Dispatch Clerk who forward to the concerned sections. He states that after segregating the correspondence he used to put it in the trays. He states that he used to check the names of the addressee on the correspondence and put it in the tray which is taken by the Dispatch Clerk. He states that, he did course in computer training for six months duration.

43. Then Union examined Harish Munde at Exhibit 101 who states that, he joined through Mapco contractors. He is getting salary of Rs. 3000/- to Rs. 4000/- per month. He states that, his Department receives samples of chemicals and Lubricants from Laboratory and Dispatch Department. He states that, he was trained by the Company.

44. So this is the evidence brought on record by the Union through above witnesses who states that, the work which was done by these employees who now remain in the reference, is available at new place i.e. at Andheri. By examining these witnesses Union try to show that, work done by these employees who remain in the reference still, subsists and same is get done by 1st Party through these agencies. Work of Clerk, Peon and Pantry boy is also available. It is to be noted that, employees of that category who remained in the reference when their work is available, question arises why, Management is not accommodating them or taking them in the Andheri office?

45. In the meanwhile Management transferred them to various places. It is to be noted that, in their appointment order there is no transfer clause. Ld. Advocate for the 1st Party tried to argue that, Union, has not proved that, the Management cannot transfer them. In fact positive burden can be put and negative is not accepted as pleaded by the 2nd Party's Advocate. It is a matter of record that, at the time of recruiting new persons, 1st party has put the clause of transfer. When 1st Party has put the clause of transfer while engaging new persons, and when there was no transfer clause in the appointment letter of the employees who remained, in the reference in my considered view, the Management cannot transfer them as per its whims and ideas as it is done by transferring them to Chennai, Kolkata, Assam and Haryana. It is to be noted that, persons of category of Clerk and Peons and Pantry boy who can be of Group 'C' and 'D' whether can be in a position to go there at such a long distance in place there they do not know anything and whether they can adjust themselves when going to such long place first time in life? There is no justification from the 1st Party side in transferring them at such long place without any cogent and satisfactory reason and then cannot say that, since they did not report at new place they cannot claim wages which is stopped by 1st Party from March 2005. Admittedly the 1st Party was paying wages till that time but under the guise of not reporting by the workers at the transferred place who remained in the reference, 1st Party, stopped their payment which is not just and proper.

46. In fact 1st party has not given notice as required under Section 9A of the Industrial disputes Act, 1947. Before shifting office from Walkeshwar to Andheri 1st Party admits that, are closing office or work of Walkeshwar office and given notice to the Shops and Establishment Inspector. The stand of the 1st Party is that, since they have not closed its activities completely but just they have closed at activities at Walkeshwar, the stand of the 1st party is that it is not the 'closure'. It is stand of the 1st Party that, it does not attract the

definition of 'closure' and rely on the citation referred reported in 2007 II CLR page 193 where it is observed that, 'closure' means closing down permanently the source of employment of the workmen i.e. place where employment is actually generated. As far as these arguments are concerned it is a matter of record that, these workmen are not accommodated at new place. That means place of Walkeshwar where they were working is closed down for them permanently and it is a 'closure of source of employment' as far as these workmen who have remained in the Reference are concerned. When work is closed for them for ever since they cannot be accommodated by 1st Party at new place which was source of employment of these workmen and since 1st Party has decided not to accommodate them at Andheri though work is available, it is require to consider that, it is "closure" for these workers as far as Walkeshwar office is concerned. In fact citation referred by 1st Party's Advocate. On the contrary said citation; help the Union in showing that, it is the 'closure of employment or closure of source of employment' as far as these workmen are concerned. Besides it is not the stand of the 1st Party that, the work done by these workmen is not available though it tried to say that, said work is get done through skilled persons who are highly educated and qualified. But actually witnesses referred above are who are doing same work are of SSC standard and even they are doing work on meager salary of Rs. 3000/- to Rs. 4000/- per month. Against that these, employees were of permanent nature definately they must be getting more salary then Rs. 3000 to 4000 per month for that work and definitely intention of the 1st Party from all these reveals that, they want just to get rid of these employees when they are adjusting the work with the help of such employees who are doing work for Rs.3000 to 4000. I am of the view that, they have decided not to accommodate the concerned workmen because that, work is get done by it under the guise of qualified and skilled persons. Besides no such qualification is shown by the 1st party to conclude that, the work now get done by the 1st Party through these various agencies cannot be get done from the employees who are involved in the reference. No such case is made out to show that presently said work is done by qualified employees. No specific reason is given as to why 1st Party cannot accommodate these workmen by transferring them to Andheri. The stand taken by the 1st Party that, said work is done by highly qualified employees or employees of that caliber at present at Andheri is not proved by the 1st Party and that work cannot be get done by the employees who have remained in the reference. No cogent and satisfactory reason is given by 1st Party to ignore these employees.

47. If we consider all this coupled with the case made out by both I conclude that, the reason given by the 1st

party that, it cannot accommodate the employees who have remained in the reference at its new place, at Andheri, on the ground of highly qualified persons are required to do the said work, and said work cannot be get done by these employees who have remained in the reference, has no meaning. So I answer this issue to that effect and conclude that, 1st Party is unable to prove that it cannot shift these employees and it has no sufficient reason to shift the employees who have remained in the reference. On the contrary 2nd Party Union succeeds in showing that work done by these employees who have remained in the Reference is still subsists and available at Andheri office and purposely 1st Party has decided not to accommodate these employees who have remained in the reference.

ISSUE NO. 6 & 7:

48. By leading evidence 2nd Party succeeds in showing that, work that was being done by the concerned workmen is still subsists and available and it is get done by 1st Party through various Agencies. Besides no reason is given as to why 1st Party is very much happy with the new Agencies instead of continuing the employees who were doing that work at Walkeshwar office? So I conclude that, 2nd Party is entitled for relief i.e. to continue the employees who were doing that work at Walkeshwar office. So I conclude that 2nd Party is entitled for relief i.e. to continue the employees who have remained in the Reference with the 1st Party even at Andheri office. So I conclude that, the 2nd Party is entitled for the reliefs.

49. So as far as employees who have remained the reference are concerned, they must be treated as employees of the 1st Party even from March, 2005 as they got their wages upto that date and they must be treated as employees of the 1st party even thereafter till they attain the age of superannuation. Hence the order :

ORDER

- (a) Reference is allowed;
- (b) 1st Party directed to treat the employee by name Padwal, Senior Clerk, Hemant Gurav, Sanjiv Pednekar, Suresh Shinde, Deepak Nachare Peons and Pradeep Kadam, Pantry boy as its employees till they attain the age of superannuation and give all monetary benefits to them attach to the post till then.
- (c) No order as to its costs.

Bombay, 2nd January, 2009.

A. A. LAD, Presiding Officer

नई दिल्ली, 15 जून, 2009

का.आ. 1893.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं बी. बी. एम. बी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण संख्या 1, चण्डीगढ़ के पंचाट (संदर्भ संख्या 79/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-6-2009 को प्राप्त हुआ था।

[सं. एल-23012/14/2001-आईआर (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 15th June, 2009

S.O. 1893.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.79/2002) of the Central Government Industrial Tribunal-cum-Labour Court, No. 1 Chandigarh as shown in the Annexure, in the Industrial Dispute between the management of BBMB, and their workmen, received by the Central Government on 15-6-2009.

[No. L-23012/14/2001-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-1,
CHANDIGARH

Case No. I. D. 79/2002

Shri Tejinder Singh C/o Shri R.K. Singh Parmar, 211-L
Brari, P.O. Partap Nagar, Nangal Dam, Ropar.

.....Applicant

Versus

The Chief Engineer (Power Wing) Generation, BBMB,
Nangal Township, Ropar.

.....Respondent

APPEARANCES

For the Workmen : None.

For the Management : Shri Rajinder Singh

AWARD

Passed on : 22-5-2009

Central Govt. vide notification No-L-23012/14/2001-IR (CM-II), dated 30-4-02 has referred the following dispute to this Tribunal for adjudication:

"Whether the action of the Chief Engineer (Power Wing), Generation, Nangal Township Ropar in terminating the services of Sh. Tejinder Singh S/o Shri Sohan Singh w.e.f. 28-2-1999 is legal and justified ? If not to what relief the workman is entitled to?"

2. The Present case was fixed for evidence of the parties. No witness of the workman is present despite many opportunities given to the workman for adducing his evidence. No affidavit either on behalf of the workman has been filed in evidence. The reference was referred by the Central Government in the year 2002 and during the last 7 years the workman is not appearing for his evidence. It appears that the workman is not interested to pursue the present reference. In view of the above, the claim in present reference is dismissed and the reference returned as such to the Central Government for want of prosecution. Central Government be informed. File be consigned.

Chandigarh Camp Nangal

22-5-2009

G. K. SHARMA, Presiding Officer

नई दिल्ली, 15 जून, 2009

का.आ. 1894.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं बी.बी.एम. बी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1, चण्डीगढ़ के पंचाट (संदर्भ संख्या 77/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-06-2009 को प्राप्त हुआ था।

[सं. एल- 23012/12/2001-आईआर (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 15th June, 2009

S.O. 1894.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.77/2002), of the Central Government Industrial Tribunal-cum-Labour Court No.1, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of BBMB, and their workmen, received by the Central Government on 15-06-2009.

[No. L-23012/12/2001-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, 1,
CHANDIGARH

Case No. I.D.77/2002

Shri Kulwinder Singh C/o Shri R.K. Singh Parmar, 211,L,
Brari, P.O. Partap Nagar, Nangal Dam, Ropar.

....Applicant

Versus

The Chief Engineer (Power Wing) Generation, BBMB,
Nangal Township, Ropar.

....Respondent

APPEARANCES

For the Workman : None
 For the Management : Shri Rajinder Singh

AWARD

Passed on: 22-5-2009

Central Government vide notification No.—L-23012/12/2001-IR (CM-II), dated 30-4-02 has referred the following dispute to this Tribunal for adjudication:

“Whether the action of the Chief Engineer (Power Wing), Generation, Nangal Township Roper in terminating the services of Shri Kulwinder Singh S/o Shri Om Parkash w. e. f. 28-2-1999 is legal and justified? If not to what relief the workman is entitled to?”

2. The present case was fixed for evidence of the parties. No witness of the workman is present despite many opportunities given to the workman for adducing his evidence. No affidavit either on behalf of the workman has been filed in evidence. The reference was referred by the Central Government in the year 2002 and during the last 7 years the workman is not appearing for his evidence. It appears that the workman is not interested to pursue the present reference. In view of the above, the claim in present reference is dismissed and the reference returned as such to the Central Government for want of prosecution. Central Government be informed. File be consigned.

Chandigarh Camp Nangal

22-5-2009

G. K. SHARMA, Presiding Officer

नई दिल्ली, 15 जून, 2009

क्र.अ. 1895.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार एत. ई. सी. एस. के प्रबंधन के संबद्ध निष्पक्षता और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जवाहरपुर के चर्च (संदर्भ संख्या CGIT/LC/R/143/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-6-2009 को प्राप्त हुआ था।

[सं. एल-22012/144/1996-आईएम (सी-II)]

अजय कुमार गौर, डेस्क अधिकारी

New Delhi, the 15th June, 2009

S.O. 1895.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/143/97) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of SECL, and their workman, which was received by the Central Government on 15-6-2009.

[No. L-22012/144/1996-IR (C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
 INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
 JABALPUR**

NO. CGIT/LC/R/143/97

Presiding Officer : Shri Mohd. Shukir Hasan

The General Secretary,
 Keyla Mandeer Sabha,
 Sehagpur Area,
 Post. Dhanpuri,
 Distt. Shahdol (MP)

....Workman/Union

Versus

The General Manager,
 Sehagpur Area of SECL,
 Post Dhanpuri,
 Distt. Shahdol (MP)

....Management

AWARD

Passed on this 2nd day of June, 2009

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/144/96-IR (C-II) dated 20-5-97 has referred the following dispute for adjudication by this tribunal :—

“Whether the action of the management of Chachai and Vivek Group of Mines of Sehagpur Area of SECL in terminating the services of Sh. Tyagi, Loader, Vivek Mines, is legal and justified? If not, to what relief is the workman entitled and from which date?”

2. On perusal of the record, it appears that applicant Shri Tyagi did not appear inspite of proper service of notice. Hence the case proceeded ex-parte against him on 20-1-06.

3. The management appeared and filed Written Statement in the case. The case of the management in short is that the workman Shri Tyagi was Loader at Vivek Nagar Incline and was habitual absentee. He had worked in the year 1992 for 62 days, in the year 1993 for 83 days and till 22-3-94 for 17 days only. It is stated that he was absent from his duties w.e.f. 22-3-94 without information, without prior permission or sanction of leave. Hence chargesheet No. 1651 dated 28/30-6-94 was issued. He submitted reply to the chargesheet but it was found unsatisfactory and therefore Department Enquiry was started against him vide office order No. 2384 dated 17/21-9-94. The Enquiry Officer conducted the departmental enquiry. The delinquent workman Shri Tyagi participated in the departmental enquiry and after completing the enquiry, the Enquiry Officer submitted enquiry report to the Competent authority who was satisfied that enquiry conducted was legal, proper and after following the principle of natural justice. Thereafter the competent authority passed the order of termination of the workman Shri Tyagi and termination order No. 267 dated 22/23-6-95 was served on the workman. It is stated, that the workman was arrested and tried on 2-2-05 U/s 3 A Railway Property Unlawful Possession Act (in short R.P.U.P Act) and was produced in the court of

Judicial Magistrate-Cum-Railway Magistrate, Raipur where he had confessed his guilt and was convicted and sentenced to pay fine of Rs.300. On these ground, it is submitted that the action of the management is legal and justified and reference be answered in favour of the management.

4. On the basis of the pleading, the following issues are for decision:—

(1) Whether the departmental enquiry conducted by the Enquiry Officer against the workman Shri Tyagi was legal, proper and was not against the principle of natural justice.

(2) If yes, then whether the punishment of termination imposed on the workman was just and proper?

(3) To any other relief, if any, the workman is entitled?

Issue No.1

To prove the charges, the management has adduced oral and documentary evidence in the case. Exhibit M/1 is the photocopy of the show cause dated 28-6-94 issued against the workman. This shows that he was absent since 23-3-94 without any information and without any sanction of leave. He was directed to furnish explanation of his absence within three days regarding the violation of Sections 26.24 & 26.30.

5. Exhibit M/2 is photocopy of the explanation submitted by the workman on 16-2-95 stating therein that he was in custody of Railway police till 2-2-95. But the explanation does not show as to when he went in the custody of Railway police and also on which allegation. His explanation appears to be vague. The management appears to be justified in starting departmental proceeding thereafter.

6. Exhibit M/3 and Exhibit M/5 are photocopy of orders by which the Enquiry Officer and Presenting Officer were appointed to conduct the enquiry and to represent the management. Exhibit M/4 is a representation dated 26-2-95 by the workman to permit him to resume the duty. This representation shows that the authority had asked him to furnish the order of the Railway Magistrate, Raipur and the document to show the period of imprisonment. Exhibit M/13 is photocopy of the order dated 2-2-95 of case No. 2158/05 of the Court of Railway Magistrate, Raipur. This order shows that he was wanted in a case under Sec 3-A Railway Property Unlawful Possession Act where he confessed his guilt and was convicted and sentenced to pay fine. This order does not show that he was in custody since 23-3-94 which had prevented him to do duty as he was absent since 23-3-94. It also appears that he was found with unlawful possession of Railway property for which he was convicted and confessed his guilt. Exhibit M/14 is the photocopy of the receipt dated 2-2-95 of payment of fine. This shows that on the same day, he was released on payment of fine. These documents clearly show that there

was no sufficient cause for remaining absent since 23-3-94. Moreover he was found in unlawful possession of Railway property and was convicted on his confession.

7. Exhibit M/6 and Exhibit M/7 are photocopy of the letters directing the workman to participate in the departmental enquiry by filing all documents and also he may defend his case through any co-workman. Exhibit M/12 is the photocopy of the enquiry proceeding. It appears that it is in six sheets. The enquiry proceeding shows that the workman participated in the enquiry proceeding. He was given full opportunity to defend his case. There is nothing in the enquiry proceeding to show that there was any violation of natural justice. Exhibit 9 is the photocopy of the enquiry report dated 27-3-95 after conclusion of the enquiry. This report shows that the Enquiry Officer found the charges proved against the workman. Exhibit 10 and 11 are the recommendation letters by the Manager Vivek Nagar incline for his dismissal to the authority. The recommendation further shows that last opportunity vide letter No. SECL:MGR:VNI:95:03:635 dated 6/7-4-95 was given to show his innocence within 7 days but no reply was given. Exhibit M/12 is the termination letter dated 22/23-6-95 passed by the Competent authority. Thus the entire documents clearly show that the departmental enquiry was legal, proper and had not violated the principle of natural justice.

8. The management has also examined one witness in the case. Management Witness V.V. Mahajan has supported the case of the management. He has proved all the documents which are the basis of termination of the workman. There is nothing to disbelieve his evidence. There is no other evidence in rebuttal to the evidence of management. Considering the above discussion, this issue is decided in favour of the management.

9. Issue No.2 & 3—Both issues are taken up together for the sake of convenience. Since it is clear from the discussion made above that he was habitual absentee and had also confessed the charge of unlawful possession of the Railway property, his termination appears to be just and proper. These issues are also decided in favour of the management.

10. In the result, the award is passed ex parte in favour of the management and against the workman without the order of costs.

11. Let the copies of the award be sent to the Government of India, Ministry of Labour and Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

ई दिल्ली, 15 जून, 2009

का.अ. 1896.—ऑटोमैटिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार एवं एक सेल के प्रबंधन के संयुक्त निबोधकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट ऑटोमैटिक विवाद में केन्द्रीय सरकार

औद्योगिक अधिकरण गुवाहाटी असम के पंचाट (संदर्भ संख्या 14/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-6-2009 को प्राप्त हुआ था।

[सं. एल-41012/128/2005-आईआर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 15th June, 2009

S.O. 1896.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.14/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Guwahati, Assam as shown in the Annexure, in the Industrial Dispute between the management of N.F. Railway, and their workmen, received by the Central Government on 15-6-2009.

[No. L-41012/128/2005-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM

Present: Shri D.K. Deb Roy, M.A. LLB. Presiding
Officer, CGIT-cum-Labour Court, Guwahati

Ref. Case No. 14 of 2006

In the matter of an Industrial Dispute between :—
The Management of N. F. Railway, Maligaon, Guwahati,
Versus

Their Workman Kumari S. Bhattacharjee, Maligaon.

APPEARANCES

For the Management : Mr. S.N. Choudhury, Advocate

For the Workman : Shri A. Das Gupta, Advocate

Date of Award: 03-6-2009

AWARD

1. The present reference is arising out of the Government Notification vide Memo No. L- 41012/128/2005-IR(B-I) Dated: 23-05-2006, to adjudicate the following issue as described in the Schedule.

“Whether the action of the management of N.F. Railway, Maligaon in discontinuing the service of Km. Supriya Bhattacharjee from service w.e. f. 17-12-2004 on the plea of non production of physical Handicapped Certificate and/or no work for her is justified? If not to what relief Km. S. Bhattacharjee is entitled to.”

2. Notice was duly served upon the parties. Both the parties appeared and submitted their Written Statements. In order to ensure fairness and transparency both the parties were allowed to adduce evidence and they were heard. Some documents have also been exhibited.

3. Here, I feel it convenient to recapitulate the brief facts of the workman namely Km. Supriya Bhattacharjee, leading to this proceeding.

Factual Matrix:—Km. Supriya Bhattacharjee (herein called the workman) was engaged as Substitue Group-D Peon in the N.F. Railway, Maligaon along with other workers. The appointment was made in due compliance with all formalities. The Workman submitted all testimonials certificates, etc. Thereafter, she was called for her medical examination in Central Hospital, N.F. Railway, Guwahati and she was found medically fit. Accordingly, she joined in her new assignment in the Office of the Estate Officer on 31-3-04. During the course of her employment the Estate Officer directed her to report before the General Manager (p), Maligaon for verification of her testimonials in original which was done on 27-4-04. She has further alleged that her father was also a retired Railway Employee, In the year 1994, she had some orthopedic problems and undertook treatment from Senior Medical Officer, N.F. Railway, who issued a certificate to that effect. According to her she was not appointed on compassionate ground of being physically handicapped, on the contrary, she was appointed against general category. She submitted the certificate issued by the Orthopedic Surgeon along with other documents. As the aforesaid certificate was in her personal file some Officers of the N.F. Railway for extraneous reasons wanted to remove her from service taking a plea that she was appointed on physically handicapped quota since the certificate was available in her service record. The Disciplinary Authority there after, asked the workman to submit her physically handicapped certificate issued by a competent authority since her appointment was made on the basis of handicapped quota. As she was not a handicapped lady she could not submit the same. As she was not physically handicapped her appointment was made not on the basis of handicapped quota, question of submitting handicapped certificate does not arise at all. It is, further, alleged that she completed 120 days of service (without break) and she is entitled to get temporary status. Though she was discharging her duties but her salary was not disbursed. She made several representations to the competent authorities but that was not addressed to. That on 17-12-04 she was asked to call on A.D.G.M., N. F. Railway, in his chamber wherein she was asked to sign a written piece of paper showing disbursement of pending salary. Initially she was reluctant to put her signature stating that she will take advice with the other well wishers. Ultimately, she was compelled to put her signature. As she was convinced by the officer to ensure her future career, she took the salary and while she started for her residence, she was handed over two closed envelopes with a direction to open the same in her residence. She arrived in her house at a jubilant mood and everybody was happy for arrear payment of salary. When she opened the envelope the letter came to her as bolt from the blue. She found one envelope containing of termination order and the other containing one month salary. The ground of termination was “non-availability of job”, though

other workers were not retrenched. No retrenchment compensation was also paid to her. She has also stated that she submitted an H. S. L. C. Admit Card issued by the Board of Secondary Education, Assam, wherein her date of birth was wrongly written as 31-2-1965 instead of 28-2-1965. According to her it was a mistake on the part of SEBA and she was not at fault. She made constant pressure on SEBA and ultimately her date of birth was corrected. According to her she was illegally retrenched from service. She prayed before this Court that she should be reinstated with all back wages and she is entitled to retrenchment compensation in accordance with the provision of 25 (F) of the I. D. Act.

4. The N. F. Railway, Maligaon (herein called the Management) contested the proceeding by filing Written Statement refuting the claim of the workman. According to the management Km. Supriya Bhattacharjee submitted an application dated 22-1-04 addressed to General Manager, N. F. Railway praying for employment in the Railway stating that she had some deformities in the lower limb supported by physically handicapped certificate issued by Dr. D. K. Ghose, Orthopedic Surgeon, Central Hospital, Maligaon, wherein her disability was shown as 45%. Being satisfied with the certificate issued by the Orthopedic Surgeon, the General Manager considered her application and appointed as substitute Grade-D against, physically handicapped quota. She was asked to undergo usual medical test which was done. No formal appointment letter was issued to her simply she was asked to join as Peon. According to the management the General Manager approved her appointment specifically against physically handicapped quota vide his endorsement on the original application form submitted by Km. Supriya Bhattacharjee. It is the averment of the Management that the maximum age limit for appointment in Grade- D is 33 years. So her appointment was approved against physically handicapped quota, since she was over aged at that time. Accordingly the workman was directed to produce physically handicapped certificate issued by competent authority. But the workman failed to submit the same. The case of the workman is that she was appointed against General quota and not from physically handicapped quota. She was never granted temporary status as alleged. The further case of the Management is that all outstanding dues were cleared up by the Railway Administration and one month salary in lieu of notice was also paid to her. The Management prays before this Court that the petition of the workman appears to be devoid of merit and the same should be dismissed.

5. From the pleadings of the parties it is thus seen that the case of the workman is that she was engaged in the Railway Department against the General quota and not from handicapped quota as alleged by the Management. The case of the Management is that the workman was appointed against physically handicapped quota and not from general quota, since she was aged more than 33 years at the time of appointment. The General Manager considered her engagement in the Railway Department on the basis of her application wherein she stated that she

was physically handicapped. The Management, therefore, instructed the workman to submit the physically handicapped certificate issued by the competent authority but she failed to submit the same. In order to appreciate the real issue involved in the matter, I am tempted to discuss the evidence on record.

6. Decision and reasons thereof:

Heard both sides. Learned counsel for the Management in his efficacious submission has contended inter-alia that since the workman was engaged in the Railway Department against handicapped quota, she was legally bound to submit the physically handicapped certificate issued by competent authority but when she failed to do so, she was terminated from the service. He has further pointed out that the workman can not claim the engagement against general quota since she was over aged at that time. The case of the workman is that she was engaged in the Railway Department against the general quota so she is not legally bound to submit the handicapped certificate.

7. The workman has examined herself as solitary witness. The Management on the other hand has examined one witness.

The workman in her evidence-in-affidavit has stated that having been satisfied with all the testimonials she was engaged in the railway department having found fit in medical examination vide medical certificate dated 13-3-04 issued by a Medical Officer, N.F. Railway. She has admitted in her evidence that in the year 1994, she had orthopedic problems and she undertook treatment from a Senior Medical Officer, N.F. Railway and accordingly a certificate was issued to that effect. She joined in the service i.e. in Group-D Post on 31-3-04 but no formal appointment letter was issued to her. Vide letter dated 7-7-04, she was asked by the Management to submit physically handicapped certificate in the proforma as prescribed by the Railway Recruitment Board, Guwahati. But she failed to submit the same since she was not physically handicapped nor she was engaged against physically handicapped quota. That on 7-12-04 as advised, she called on Assistant Dy. General Manager, N.F. Railway in his chamber who asked her to sign a piece of written paper acknowledging the receipt of her salary with effect from 31-3-04 to 17-12-04. It is admitted fact that one month extra salary was also paid to her. Unfortunately, a termination letter dated 15-12-04 was issued to her by the General Manager. She raised an Industrial Dispute before the Assistant Labour Commissioner (c), at Guwahati. The dispute could not be settled up in conciliation proceeding and eventually the matter was referred before this Court for adjudication. In the first line of the cross-examination she has admitted the Post was not advertised. Simply she came to know that the application for the post of G. M. quota was called for and accordingly she applied. Accordingly she was asked to join in the post of Group-D. No written appointment letter was issued to her. Initially she joined in the office of the Estate Officer and she used to put her signature regularly on the attendance register. Though monthly salary was

not paid regularly but all the arrears were paid at a time including extra one month salary. She has admitted that she is not handicapped person and her appointment was not against handicapped quota. It was suggested by the Management that she was legally terminated from service.

M.W.I. has said in his evidence that he does not know the workman. He has come before this Court to depose on perusal of the official records. According to him, General Manager, N. F. Railway, Malignan passed an order on her petition for appointment on handicapped quota by an endorsement on the top of her application Form (vide Ext. 1). Ext. 2 is the copy of the medical certificate submitted by workman Supriya Bhattacharjee. In pursuance of the G.M.'s order she was appointed as Peon in the N. F. Railway, Malignan and accordingly she joined on 31-3-04 (vide Ext. 3). As she belonged to general quota the maximum age of appointment should be 30 years. Ext. 4 is the Admit Card of the workman. He has further stated that along with application Form the workman submitted a handicapped certificate issued by Dr. D. K. Ghose though it was not in proper Form as per norms of the Railway Recruitment Board. Ext. 5 is the medical certificate. Since she was appointed against physically handicapped quota, repeatedly she was asked to produce physically handicapped certificate but she failed to do so. In cross-examination this witness has admitted that the workman was terminated on 17-12-04 though she joined in service on 31-3-04. No formal appointment letter was issued to her. But the salary was paid to her for the entire period. He has further stated in cross-examination, one month remuneration was paid to the workman in lieu of notice. He does not know whether the recruitment compensation was paid or not. He has specifically stated that the workman was engaged against physically handicapped quota. It was suggested by the workman that she was not appointed against physically handicapped quota. This witness has admitted in cross-examination that departmental proceeding was not initiated against the workman since she was not a regular employee of the Railway Administration. The workman suggested this witness that the workman was illegally terminated from service, which is answered in negative.

3. On evaluation of the entire evidence on record, it is thus seen that the bone of contention between the parties regarding her appointment on general quota or physically handicapped quota. The witness for the Management has specifically stated in his evidence that appointment in case of general quota, the maximum age limit is 30 years. At the time of her engagement she was more than 30 years and she was over aged. Ext. 4 is the Admit Card in respect of workman Supriya Bhattacharjee, issued by Board of Secondary Education, Assam showing her Date of Birth is 31-2-1965 though it was corrected later on showing the Date of Birth is 28-2-1965 in stead of 31-2-1965. Admittedly she was engaged on 31-3-04 in the Railway Department and her Date of Birth was 28-2-1965 at the relevant time. It is, thus, apparent that she was aged around 39 years at the

time of her appointment though the maximum age limit was 30 years. The only way opened to the Railway Department to engage her against physically handicapped quota as claimed by her in pursuance of her application vide Ext. 1. Ext. 1 clearly shows that the General Manager endorsed her application for appointment against physically handicapped quota. Having heard both sides and having considered the evidence on record, I hold that the workman was engaged in the Railway department against physically handicapped quota and not against general quota as claimed by her. It is also admitted that the workman failed to submit the physically handicapped certificate issued by a competent authority despite several instructions given by the Railway Administration. Had she been below 30 years at the time of her appointment, her case could have been considered by the authority against general quota. Mr. Dasgupta, the learned counsel for the workman at the fig end of his submission contended that since the workman was terminated illegally, she is entitled to be reinstated along with backwages. I do not find any substance in the submission. In this context, let me refer a recent decision of the Apex Court reported in 2008 LAB.LC 4155(SC), Talwara Co-Operative Credit Service Society Ltd. Vrs. Sushil Kumar, wherein it has been observed as below:

"Grant of a relief of reinstatement, it is trite, is not automatic. Grant of back wages is also not automatic. The Industrial Courts while exercising their power u/s 11(A) of the Industrial Disputes Act, 1947 are required to strike a balance in a situation of this nature. For the said purpose, certain relevant factors, as for example, nature of service, the mode and manner of recruitment viz. whether the appointment had been made in accordance with the statutory rules, etc."

The same view was reiterated by another decision of the Apex Court reported in G. M. Hariyana Roadways Vrs. Rudhen Singh (2005) 5 SCC 591.

Admittedly no advertisement was made for the Post of Peon in respect of the workman nor her name was recommended by the Employment Exchange or any interview took place for the said post. It is also admitted that no formal appointment letter was issued to her.

9. Having heard both sides and having considered the entirety of the facts and circumstances of the case and having regard to the ratio as laid down by the Apex Court, I am constrained to hold that the workman has been rightly terminated by the Management i.e. N. F. Railway, Malignan and I do not find any inherent illegality or impropriety having been committed by the Management, thus calls for no interference by this Court.

10. In the result, the order of termination stands affirmed.

11. With the observation indicated above, the issue thus answered accordingly.

12. Send the award to the Government in accordance with law.

D. K. DEB ROY, Presiding Officer

नई दिल्ली, 17 जून, 2009

का.आ. 1897.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं प्रसार भारती के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 1291/2K6) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-6-2009 को प्राप्त हुआ था।

[सं. एल-42012/174/2005-आईआर(सी एम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 17th June, 2009

S.O. 1897.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1291/2K6) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of Prasar Bharati, Broadcasting Corporation of India, and their workmen, received by the Central Government on 17-6-2009.

[No. L-42012/174/2005-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-II, SECTOR 18-A,
CHANDIGARH

PRESIDING OFFICER : Shri Kuldip Singh

CASE I.D. No. 1291/2K6

Registered on 30-11-2006

Date of Decision : 7-11-2008

Jai Chand S/o Shri Narainoo Ram R/o Village Shrog, P. O.
Chailly, Sumner Hill, ShimlaPetitioner

Versus

The Director, Prasar Bharati, Broadcasting Corporation
of India, Doordarshan Kendra, ShimlaRespondent

APPEARANCE

For the Workman : Mr. S. R. Sharma, Advocate,

For the Management : Mr. K. K. Tharkur, Advocate,

AWARD

The Government of India, Ministry of Labour, New Delhi referred the following matter for the adjudication of this Tribunal by this Tribunal vide their No. L-42012/174/2005-IR(CM-II) dated 30-10-2006.

“Whether the action of the management of Doordarshan Kendra, Shimla, in terminating the services of Sh. Jai Chand w.e.f. January, 2003 is legal and justified? If not, to what relief is the workman entitled?”

The notice of the reference was given to the parties who appeared through their counsel and filed their pleadings in the shape of statement of claim, written statement, replication and supported the same with their affidavits. They also placed on record copies of some documents and the judgement of the Central Administrative Tribunal, Chandigarh. The case was being listed for the evidence of the workman when proposal for settlement of the dispute amicably was mooted. The workman submitted that in case he is provided work and is engaged on contract for any assignment for the category he had worked earlier or for work equivalent to that, he would withdraw his claim against the management. The respondent Director accepted the proposal and undertook to consider the engagement of the workman on contract for any assignment keeping in view his past experience of working with the management on an equivalent status or similar category provided he withdrew his case. Statement of counsel for the workman and that of respondent Director were recorded. In view of the statement made by the respondent, the workman has withdrawn from the contest of the case and does not want to produce any evidence in support of the claim. There is therefore, no evidence on record to show that the management had terminated the services of the workman Jai Chand w.e.f. January, 2003 and their action was not legal and justified. For want of evidence the referee is answered against the workman and the award is passed holding that workman is not entitled to any relief. Let the copy of the award be sent to the Appropriate Government for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 17 जून, 2009

का.आ. 1898.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं ओ. एन. जी. सी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, गुवाहटी के पंचाट [संदर्भ संख्या 3(C) of 1996] को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-6-2009 को प्राप्त हुआ था।

[सं. एल-20040/77/1995-आईआर(सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 17th June, 2009

S.O. 1898.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award [Ref. No. 3 (C) of 1996] of the Industrial Tribunal, Guwahati as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ONGC and their workman, which was received by the Central Government on 17-6-2009.

[No. L-20040/77/1995-IR(C-I)]

SNEH LATA JAWAS, Desk Officer

**ANNEXURE
IN THE INDUSTRIAL TRIBUNAL :
GUWAHATI : ASSAM.**

Reference No. 3(C) of 1996

Present : Md. S. Hussain, M. Lib. Sc; LLB,
Presiding Officer,
Industrial Tribunal, Guwahati.

In the Matter of an Industrial Dispute between:

**The Management of
Oil and Natural Gas Corporation, Nazira.**

-Vs-

1. Sri Jatin Kr. Nath,
2. Md. Safiraddin Ahmed,
3. Sri Deba Kanta Das,
4. Sk. Nurmahammad Ali,
5. Sri Sreeprasad Das,
6. Md. Basiraddin Ahmed,
7. Sri Anil Ch. Das,
8. Sri Dijen Kakati
9. Sri Pranab Borah,
10. Sri Parag Phukan,
11. Sri Prafulla Das.
12. Sri Bhadra Kanta Das,
13. Sri Rupam Kr. Das,
14. Sri Bipul Boruah,
15. Sri Sunil Dey,
16. Sri Atul Ch. Das.,
17. Md Rafiqul Hussain,
18. Sri Bijit Nath.

Appearance

Ld Advocates- Mr. P. B. Choudhury, : for the
Management of ONGC.
Mr. P. K. Sen,
Mr. P. K. Roy,
Mr. S. K. Chakraborty.

Ld. Advocates- Mr. A. Dasgupta, : for the Workmen.
Mr. S. Chakraborty.

Date of Arguments: 6-1-09, 26-1-09, 28-1-09, 12-2-09, 13-2-09,
3-4-09.

Date of Award : 15-5-2009.

AWARD

(1) This reference case had been registered on the basis notification of Government of India, Ministry of Labour No. L-20040/77/95-IR(Coal-I) dated 21-11-96. The Government of India vide that notification directed this tribunal to adjudicate the term (Issue) :

“Whether the demand for regularisation by management of Oil and Natural Gas Corporation, Nazira and equal wages at par with their direct

counterparts by S/Shri Jatin Kr. Nath, Md. Safiraddin Ahmed, Sri Deba Kanta Das, SK. Nurmahammad Ali, Sriprasad Das, SK. Basiraddin Ahmed, Anil Ch. Das, Dijen Kakaty, Pranab Borah, Parag Phukan, Prafulla Das, Bhadra Kanta Das, Rupam Kr. Das, Bipul Boruah, Sunil Dey, Atul Ch. Das, Md. Rofiqul Hussain and Bijit Nath is legal and justified ? If so, to what relief are these workmen entitled ?”

(2) On registering the case this tribunal issued notices to both the parties, and both the parties also filed their respective written statement and additional written statements in support of their respective claim. Both sides also adduced their oral and documentary evidence to establish respective claims. On hearing argument of both sides, Ld. Advocates after recording the evidence, my predecessor presiding officer, on 30-11-2000, passed an award, and declared that the workmen are entitled to demand for regularization which the management of ONGCL, ought to do in the interest of justice and equity and directed the management of ONGCL to regularize the service of the workmen within a year, and to give them equal pay with that of regular employee till their regularization in the event of failure of management to regularize within said period. Being dissatisfied with this award, the management went to Hon'ble Gauhati High Court and filed writ application which was registered as WP(C) No. 8368/2001 and Hon'ble Gauhati High Court, delivering its judgement, on 25-3-2004, disposed of that writ petition and directed this tribunal to give fresh decision on the dispute connecting with eleven persons excluding six persons-namely-Shri Safiraddin Ahmed, Sri Jatin Kr. Nath, SK Nurmohammad Ali, Atul Ch. Das, Md. Rafiqul Hussain, Parag Phukan, who, High Court held, are contractors of contract labourers and also not entitled to regularization. In the said judgment Hon'ble High Court observed that the management has failed to set forth material to satisfy the court that the remaining eleven workmen are employees of the contractors and in the same time the workmen side has also failed to set forth material to enable the court to be satisfied that the said workmen are direct employee under the employer. And accordingly High Court remanded the case for fresh decision on the dispute in connection with remaining eleven persons on the basis of such additional evidence that the party may adduce.

(3) After receiving the case on remand, this tribunal gave opportunity to both the parties to adduce additional evidence as per direction of Hon'ble High Court and accordingly the workmen side, filed affidavit of one Pranab Boruah and Basiraddin Ahmed as additional evidence who were also cross-examined by the management side. The management side also re-examined MW1-Ashok Kr. Hazarika as additional evidence and he was cross-examined by the workmen side.

(4) After receiving additional evidence adduced by the parties in compliance with the direction given by the Hon'ble High Court in the judgment dated 21-5-2004 in

WP(C) No. 8368/2001. I have heard the lengthy argument of Ld. Advocate Mr. P. B. Choudhury for the management of ONGC and of Ld. Advocate Mr. A. Dasgupta for the workmen on 6-1-09, 28-1-09, 29-1-09, 12-2-09, 13-2-09, 3-4-09.

I am giving my decision on the term of reference below—

(5) The crux of pleadings of the workmen side is as follows Shri Jatin Kr. Nath and 17 other persons named in reference notification are land losers, whose lands were acquired by ONGCL for oil exploration in the year 1986 and in lieu of the land, ONGCL agreed to provide jobs to them first temporarily and then on permanent basis and relating to that matter an agreement was entered between both ONGCL and leader of AASU (Sibsagar Unit) and Government of Assam on 10-9-86 under Chairmanship of Shri P. Gogoi, the then Minister of State for Parliamentary Affairs, in presence of the then M. P. Mr P. Chaliha and Shri P. Hazarika, the then M.L.A. In said meeting it was also decided that 53 persons of Changmai Gaon and 49 persons of Baliaghat Gaon whose land was acquired by the ONGCL would be appointed temporarily for 90 days, subject to the renewal from time to time. It was also agreed in other meeting held on 22nd and 24th Nov, 1986, that ONGCL would take step to provide suitable employment to at least one member of each family, whose land acquired by them but ONGCL has not come forward to materialize of those agreement. Prior to agreement of dated 16-7-86 ONGCL had also decided to fill up the vacancies that would arise time to time from the persons whose lands were acquired by ONGCL, and 49 candidates from RDS and 56 from Baliaghat area appeared in an interview for jobs, but result of such interview was not published by ONGCL. The ONGCL, on enquiry by the Deputy Commissioner, Sibsagar informed the latter that ONGCL's commitment to provide jobs to at least one person of land affected family would be effected. The D.G.M. of ONGCL agreed that atleast one member of each land affected family of Changmai Gaon and Baliaghat Gaon would temporarily be appointed and their service would be made permanent later on. The workmen named in the reference notice were given temporary appointment and hence they were working as security guard since 1986 without any break under the control and supervision of authority of ONGCL but they were not made permanent nor were given pay as per rate of the permanent employee. The Standing Order of ONGCL recognized three types of workmen viz (1) Regular, (2) Temporary, (3) Casual as per clause 2(1) of Standing Order. The workmen who have been working since 1986 entitled to be regularized in their service and if ONGCL feel then these workmen should be trained-up as per agreement on 1-8-86. But despite they have been working as security guards about 10 years temporarily, their service have not been regularized and they have been continuing to work in the said temporary posts although jobs of security guards is of perennial in nature. Being compel, they raised in this

industrial dispute before Regional Labour Commissioner, Guwahati and that ended as failure and the report was sent to Ministry of Labour, Government of India. Contract Labour (Regulation and Abolition) Act, 1970, which is social welfare legislation, regulate the condition of contract labours and to abolish it when the workmen found to be perennial in nature. The post of Security Guards are perennial in nature and the workmen have been working in the said post since 1986, they are entitled to be regularized in their jobs and their case is supported by Standing Order of ONGCL as well as Contract Labour (Regulation and Abolition) Act, 1970, and they are also entitled to salary at par date of salary given to regular employees.

6. The crux of the pleadings of the management is that the dispute referred by the Government is not an industrial dispute within the meaning of Sec. 2 (K) of Industrial Disputes Act, 1947 but same can be said as individual dispute. The instant dispute has not been espoused by any trade union registered under Trade Union Act, 1926. The persons who are subject matter of the present dispute are not workmen within the meaning of Sec. 2(a) of Industrial Disputes Act, 1972, but they are contract workers and hence this tribunal has no jurisdiction to direct to regularise their service unless the job of guarding ONGCL's properties through contract labours is prohibited under Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970 by Central Government through notification. If the instant reference is allowed it would tantamount to abolition of contract labourers taken for the purpose of guarding ONGCL's properties and hence this tribunal has no jurisdiction to direct regularization. As the persons are contract labourers the Central Government has no power to refer the instant dispute to this tribunal. It is disputing that the said persons are land losers whose lands were acquired by ONGCL in the year 1986. ONGCL never agreed to provide jobs to the said persons. It is fact that agreements were entered into between ONGCL and labourer contractors Shri Safiraddin Ahmed, Jatin Kr. Nath Sk. Nurmahammed Ali, Sri Atul Ch. Das, Md. Rafiqul Hussain and Sri Parag Phukan, whereby the company is procuring services of the contractors to safeguard the safety of its materials, machines lying at the drilling sites, and the company paid the contractors the amount at the rates mentioned in the respective agreement. Before engaging contractors, tenders, are invited and company entered into agreements with the contractor who are successful tenderers. All the persons who are subject matter of this reference have been engaged by the contractors. ONGCL is registered under Contract Labour (Regulation & Abolition) Act, 1971 and rules framed thereunder. The labourers engaged by contractors are neither within knowledge of the ONGCL nor ONGCL is party in selecting them, and there is no relationship of employer and employee between ONGCL and the contractor's labourers. The contractors are liable to pay minimum wages fixed by

the company from time to time to their workers. ONGCL being the principal employer have the responsibility to ensure that the labourers are being paid minimum wages by the contractors, but the company has not received any complaint for such non-payment to any contract labourers. ONGCL is a statutory body and a 'State' within the meaning of Article 12 of the Constitution of India. The Company has its own recruitment rules namely Oil and Natural Gas Commission (Recruitment and Promotion) Regulations, 1980 which prescribed that the company cannot make any appointment in violation of the provisions of said Regulation, and the company also have in no point of time recruited the persons referred in the reference in the company's job. ONGCL never entered into any agreement to appoint 53 persons of the Changmai Gaon and 49 persons of Baliaghat Gaon nor they appointed them at first instance for 90 days subject to renewal from time to time. ONGCL had not agreed in a meeting held on 22nd & 24th Nov., 1986 to take necessary measures to provide suitable employment to, at least one member of each family, whose lands were acquired by ONGCL. ONGCL was not a party of meeting dated 16-7-86 nor agreed to fill up the vacancies from the persons whose lands were acquired by ONGCL. The company has no policy at all to give any employment to the persons whose lands have been acquired by ONGCL nor they authorized any officers of the company to say that the company would provide employment to the said persons. The D.G.M. of ONGCL it never assured to give employment to such persons temporarily for 90 days which is subject to renewal from time to time. The connected persons were never given temporary appointment. The connected persons have never been working as security guard since 1986 without break in the Oil filled in Rudra Sagar nor they are working under the control and supervision of the management. The question of giving equal pay scale to the persons of the reference at par with permanent employees does not arise at all having they are not recruited as per Recruitment Rules, 1980 and nor recruited directly by the company. The persons of reference are engaged to perform watch duty for safeguarding the materials, whereas the security personnel, who are the regular employees of the company and appointed after observance of Recruitment Rules, 1980, are required to perform higher duties and responsibility and they are responsible for carrying out surprised supervising the men posted in security duty point and they only are responsible for safety and security of the men, materials of the company and contractors/labourers are responsible for watch and ward duty in safeguarding the company's properties in a soft area where threat is less and materials only require security. Standing Orders are not applicable to the persons of the reference as they are not working under the company. It is not a fact that the persons in reference have been performing the duties of security guards, under the direct control and supervision of the management, and they have been working for 10 years, and they yet continue to work

with disruption as jobs of security guards are perennial in nature. Since employment under ONGCL is a public employment, a person whose appointment has not been made in accordance with the provision of Recruitment Rules of 1980 does not have any right to be appointed against any permanent post in the shape of regularization. Mere continuation of service of the persons for a long period, as alleged, can not be a ground for regularization of their service nor they are entitled to get equal pay like that of permanent security personnel appointed by the company.

7. Forwarding argument for the ONGCL Ld. advocate Mr. Choudhury submits that as Hon'ble High Court vide its judgment, dated 21-5-04, holds that from the evidence already adduced by the parties it is neither established that the remaining eleven persons are contract labourers under the contractor of ONGCL nor that they are direct employees of ONGCL and hence these issue are to be decided by the tribunal de novo on the basis of additional evidence to be adduced by the parties, hence this tribunal must have to decide these issues basing only on the additional evidence adduced by the parties after the remand and this tribunal cannot re-evaluate evidence recorded before. In rebuttal, workmen counsel Ld. advocate Mr. Dasgupta submits that this tribunal has power to adjudicate these issues afresh basing on all the evidences recorded before and after the remand.

In this case, it is found from the record that my predecessor Presiding Officer passed the award on 30-11-2000 after hearing both sides case and directed the management of ONGCL to regularise the service of all seventeen workmen and give them equal pay at par with regular employees on ONGCL. Being dissatisfied with the award, the management of ONGCL filed with petition before Hon'ble High Court which was registered as W.P (C) No. 8368/2001 and was also disposed of by Hon'ble High Court (Single Judge) vide judgment dated 21-5-04. By that judgment Hon'ble High Court remanded case for fresh judgment in connection with eleven persons with certain directions. In the said judgment High Court held that six persons out of seventeen persons namely (1) Shri Safiraddin Ahmed, (2) Shri Jatin Kr.Nath, (3) Sk Nurmahammad Ali, (4) Atul Ch. Das, (5) Md. Rafiqul Hussein, (6) Sri Parag Das are contractors engaged by ONGCL for supplying of contract labourers and no direction with regularization of the said persons could have been made as said persons are contractors themselves. The High Court also held that ONGCL has not adduced any materials to show that aforesaid eleven persons or any of them had been engaged as contract labourers by the contractors appointed by ONGCL, and while no materials has been forthcoming on the part of the management to satisfy the court that eleven workmen concerned were employees of the contractors and in the same time, there is hardly any materials on behalf of the workmen to enable the court to be satisfied that the eleven workmen concerned were the

direct employees under ONGCL, a fresh decision on such eleven persons on the basis of such "additional evidence" the parties may adduce required to be given by this tribunal.

After perusing that judgment of Hon'ble High Court, it appears to me that the Hon'ble High Court directs to decide issues relating to remaining eleven persons basing only on additional evidence adduced by the parties after remand. So, I hold that the argument of Ld. advocate Mr. Choudhury has force but of Ld. advocate Mr. Dasgupta cannot be sustained. Thus this tribunal is to decide issues basing mainly on the additional evidence adduced after remand.

8. Now let us examine whether the parties succeeds to establish their respective claim by adducing additional evidence or not. After remand of the case the workmen side filed affidavits of Shri Pranab Borah and Shri Basiratddin Ahmed as additional evidence as well as the management side also re-examined MW1 Sri Ashok Kr. Hazarika as additional evidence after remand.

By forwarding argument for management Ld. advocate Mr. P. B. Chaudhury submits that the eleven persons connected with the reference are contract labourers who used to guard the machine and tools in the drilling site at Gauri Sagar and they were being paid through their contractors and their works were not supervised by the offices of ONGCL and they were also not known for the management and the contractors engaged them in work and the management paid amount to the contractors and the contractors used to pay wages to them. Rebutting that argument, workmen's counsel Ld. advocate Mr. Dasgupta submits that these persons were direct employees under the management but temporary one who were employed by the management by holding interview where they appeared and they were selected as they belong for families whose property were acquired by the ONGCL for drilling purpose but ONGCL kept them in temporary states till today, although they have been working since 1986 and they have been working in the posts of security guards which are of perennial in nature and not only that their works was being supervised by the offices of ONGCL and they are being paid salary selecting one of them as leader for convenience and the company, with ulterior motive, shows them as contract labourers, and that this tribunal has power to lift the veil to see what is the real picture and if this tribunal actually does so, it will find that the workmen are direct employees under the company whose works are being supervised by the company and they are being paid wages by the company directly.

9. In the pleadings the workmen side states that all the connected workmen belong to land affected families whose properties were acquisitioned by ONGCL for drilling purpose and ONGCL agreed to appoint at least one family member of each families and to that effect ONGCL entered agreements with such families after discussions held in presence of Deputy Commissioner of Sibsagar District on

22nd & 24th Nov., 1986; - before that also the ONGCL also agreed in the meetings held on 10-9-86 to appoint at least one member of each affected families; accordingly the connected workmen were appointed temporarily for 90 days in the year 1986 subject to renewal later on. This plea stands not proved according to Hon'ble High Court as seen from the decision given in judgment delivered on 21-5-2004 WP(C) No. 8368 of 2001.

10. (a) Now let us see whether the workmen side succeeds to prove that plea by adducing additional evidence after remand of the case from Hon'ble High Court. After remand of the case the workmen examined Shri Pranab Borah and Md. Basiratddin Ahmed as their witnesses. Both these two witnesses clearly state that they have not submitted any documents to show that they were appointed by ONGCL. Both witnesses are found to have not submitted any appointment letter of other connected workmen. They also admit that other connected workmen have not given written authority to them to depose evidence in their behalf. On the other hand other connected workmen also have not turned up to give evidence to proof their respective claim nor submitted any appointment letter. To prove the plea of appoint. W.W.3 Shri Pranab Boruah in evidence states that exhibits 19, 20, 21, 22, 23, 24, 25 & 26 are calling letters issued by ONGCL. Ld. Advocate Mr. Dasgupta submits that these documents are proof of appointing connected workmen in the posts of security guards in pursuance their agreements arrived in the meeting held on 10-9-86, 22-11-86 and 24-11-86, but Ld. Advocate Mr. Choudhury submitted that these documents do not show that connected workmen were appointed by the ONGCL. In this case it is seen that except Basiratddin Ahmed and Pranab Borah, other connected workmen have not turned up to give oral evidence nor they adduced documentary evidence to support of their claim. It is already found that Pranab Borah and Basiratddin Ahmed were not given written authority by the remaining workmen to depose evidence in their behalf. After perusing the documents exhibit. 19 to exhibit 27 it appears to me that exhibit 19 is the calling letter to Dwijen Kakati for a interview to be held from 23-3-84 to 31-3-84; exhibit 20 is calling letter issued to Basiratddin Ahmed to appear interview of such date; exhibit 21 is also similar calling letter issued to Bhadrakanta Das; exhibit 22 is the calling letter issued to Shri Shreeprasad Das to appear interview on 20-5-85; exhibit 23 is a calling letter to Prafulla Das to appear interview on 20-5-85; exhibit 24 calling letter issued to Shri Bipul Baruah to appear in the interview on 14-5-85; exhibit 25 is a calling letter issued to Pranab Borah to appear interview to be held from 24-3-84 to 31-3-84. From these documents it is clear that connected workmen Dwijen Kakoti, Basiratddin Ahmed, B.K. Das, Shri Shreeprasad Das, Prafulla Das; Bipul Baruah and Pranab Borah were called to appear interview as a member of families whose land acquired by the ONGCL, but these documents do not show that they were actually appointed by the

ONGCL. The workmen side exhibited no other documents to show that they were appointed by the ONGCL after their appearance in the said interview. W.W.3 Pranab Borah in the cross-examined admits that he has not submitted any documents in support of his claim that he work for long time and likewise W.W.4 Basiruddin Ahmed also, in cross-examination, said that he has not submitted any document to prove that he is working as security guard for last 20 years and his co-worker Jatin Kr. Nath are still working in the ONGCL. Thus it is found that these witnesses have not submitted any documents in support of that statements. W.W.3 & W.W.4 also failed to submit any documents support their oral evidence that they and other workmen have been working as security guard since 1986 till today. W.W.4 states that exhibits 28 & 29 is the documents to prove their claim but after examining exhibit 28, it is found that it is a agreements entered into by, ONGCL with their labour contractors Shri Rafiqul Hussain to provide security service in the drilling site and it is a documents of dated 1-4-07. So exhibit 28 is not the proof of the claim of the workmen side, and after perusing exhibit 29 it is also seen that it is a letter by which ONGCL informed W.W.4 that he can not be appointed in any post but he may be called later on. So exhibit 29 is also not a proof of appointing the workmen by ONGCL as security guard in any occasions in between 1986 and 1995. W.W.3 & W.W.4 also admit that the wages were not directly given to them. Thus it is proved that they were given wages through the contractors. W.W.3 states that the attendance register was being maintained by ONGCL. It is found that workmen side neither exhibited such attendance register nor called for such attendance register from the ONGCL. This fact proves that ONGCL never maintained such register of there eleven workmen and ONGCL has no direct relation with them, nor they supervised their duties. The management side witness M.W.1 Shri Ashok Kr. Hazarika states that the workmen were not known to ONGCL as ONGCL has no direct relation with contractual labour used by their labour contractors. In the judgment of Hon'ble High Court by which this case is remanded, Hon'ble High Court held that six persons of referred 18 persons namely Safiruddin Ahmed, Jatin Kr. Nath, Sk.N.Ali, Atul Ch.Das, Md.Rafiqul Hussain and Shri Parag Kr. Phookan are labour contractors. This tribunal has no authority to review such decision of the Hon'ble High Court but to go accordingly to such decision. So it is proved that in the relevant period these six persons were labour contractors and they provided security services in the drilling sites by engaging contractual labour. W.W.3 & W.W.4 on the other hand admitted that the connected workmen were later on shown contractual labour. It is already found that the workmen side neither exhibited attendance register, pay role, pay vouchers nor they called for such documents from the authority of ONGCL. This circumstances infers that the connected workmen were contractual labour under above named six labour contractors.

(b) Workmen sides counsel Ld. Advocate Mr. Dasgupta further submits that ONGCL authority agreed to appoint the connected workmen by entering into agreement in the meeting held on 10-9-86, 22-11-86 and 24-11-86 and accordingly ONGCL appointed connected workmen as security guards temporarily and their service were renewed time to time. The management side Ld. advocate Mr. Choudhury submits that ONGCL never entered into such agreement nor ONGCL has any policy decision to employ any member of land affected families whose land was acquired by ONGC. I have also gone through exhibit 15, exhibit 16 & exhibit 17 and it is found that exhibit 15 is a minutes of discussion held on 16-7-86 between some public figures and officials of ONGCL in the chamber of Deputy Commissioner, Sibsagar but it is not an agreement of appointing the connected workmen; likewise exhibit 16 is also minutes of discussion in the meeting held on 1-8-86 in the chamber of Deputy Commissioner and it is also not an agreement entered into by ONGCL to appoint the workmen; likewise exhibit 17 is also the minutes of discussion held on 10-9-86 and it is also not agreement entered into by ONGCL to appoint the connected workmen. Secondly, even if it is supposed that in the said meeting ONGCL actually agrees to appoint the connected workmen, yet these documents can not be proof of appointing them having these are not appointment letters. So the argument of Id. advocate Mr. Dasgupta can not be sustained rather it must be held that argument of Id. advocate Mr. Choudhury is sustainable. Thirdly it is already found that the workmen side totally fails to submits their respective appointment letters or any other documents which reflects their recruitment directly under ONGCL nor they have called for any such documents from ONGCL. So it must be presumed that the ONGCL has no such documents. It is fact that ONGCL does not required to maintain any register of contractual workmen employed by the labour contractors as because it is a burden of contractors themselves. From evidences it is also seen that the workmen side witnesses admit that they were shown as contractual labourer later on. So this statement amounts to admitting the plea of management that eleven connected workmen were contractual labourers.

(c) Both sides also admit that the Central Govt. has not issued notification prohibiting ONGCL to get their works done through contractual labourer. Thus it is established that the Government has not in compliance with the provision of Contract Labour (Regulation & Abolition) Act.1970 prohibited ONGCL to get some of their works done through contractual labourer. Moreover ONGCL has also licence to engage contractual labour. Thus it is clear that ONGCL has authority to get some of its works done employing contractual labourer through labour contractors.

(d) Workmen sides Id. advocate Mr. Dasgupta submits that if the lid is lifted it must be found the workmen are direct employee of ONGCL and they are not contractual

employee under labour contractors. He further submits that the court is to lift the veil to find out the real status of the workmen although they are shown contractual labour. In support of his submission, he refers judgment of the Hon'ble High Court (1)(i) WP(C) No. 8367/2001 (G.H.C) (ii) WP(C) No. 8369/2001 (G.H.C) Oil & Natural Gas Corporation Ltd. Vs. Union of India and ONGC Contractual Mazdoor Sangha Sibsagar. (2) Writ Petition No.2 No.2601/2006 (G.H.C.) (i) Siva Prasad Bhattacharyee (ii) Shri Dharmeswar Pathak Vs. N.F.Railway & Union of India (3) Writ Appeal No.4755/2001 S.C. General Manager ONGC Silchar Vs. ONGC Contractual Workers Union (2009)1SCC(L&S). I have perused the cited judgment.

I have found that in judgments in WP(C) 8367/2001 WP(C)8369/2001 and WP(C) 2601/2006. Hon'ble Gauhati High Court observed that though the terms of reference appears to have been rather loosely worded, as both the parties were aware of the real issue involved in the proceeding. The industrial adjudicator acted within the limits of his jurisdiction in lifting the veil so as to determine the nature of the employment of the concerned workmen, and that though the contractors who were shown to have engaged the contractual labour had change from time to time, yet the workmen had continued to remain employed all along was not rebutted by the management and in such situation contract agreement made by the management were sham or a pretext and contract labourers are actually direct employee. In instant case it is seen that out of eleven alleged workmen only two workmen turned up and gives evidences but they also failed to give details of their employment under contractor's or under authority of the ONGCL; other nine workmen neither filed affidavit nor adduces evidence in support of their case. No piece of documents relating to their engagement in the service of ONGCL is filed by them. So in such situation the decisions of the Hon'ble Gauhati High Court in the cited cases could not come to help the workmen side, and thus these eleven workmen can not be assumed to be direct employee of ONGCL.

In Civil Appeal No.4755/2001 Hon'ble Supreme Court observed that the tribunal has power to lift the veil so is to determine the nature of employment and the dispute between the parties and for that purpose to look into pleadings and evidences produce before it. In the said case Hon'ble Supreme Court also upheld the view of the tribunal that the workmen are the direct employee of the ONGCL not the contractual labourers. After perusing that judgment I have found that the learned Industrial Tribunal had declared those workmen as direct employee in ONGC after finding the following circumstance

- "1) That there existed a relationship of master and servant.
- 2) That there was no contractor appointed by ONGC.

- 3) That the ONGC used to supervise and allot works to individual workers.
- 4) That the ONGC took disciplinary action and called for explanations from the workers.
- 5) The workers were paid wages though they did not attend their duties due to Cachar Bandh and due to flood.
- 6) The wages were paid direct to the workers by the ONGC and the acquittance roll was prepared by the management to make payment to the workmen".

But in the instant case none of circumstances found by the tribunal in the cited case is established from analysis of evidences adduced. So guiding by the decision of the said case, this tribunal can not come into conclusions that the alleged workmen of the instant case are direct employee under ONGCL. Secondly, from analysis of evidence it is already proved that these eleven workmen are contractual labourers and it is also found that they failed to show that they have been working as contractual labour since 1986 to 1995. In such circumstances it shall be presumed that they worked as contractual labour intermittently during the relevant period, and as a result it can not be said that the contractual agreement arrived into between the ONGCL and labour contractors are sham and/or camouflage to cover the real nature of the employment; and in the result I hold that the observation of the Hon'ble High Court in WP(C) No.8367/2001 and WP(C) No. 8361/2001 could not come to help the workmen.

(e) Learned advocate Mr. Asis Dasgupta further submits that Ext.6 in the representation filed by the workmen demanding appointment on the ground being members of land loser families. I have perused Ext.6 found that it is a representation filed by these eleven workmen along with some other person demanding employment on the ground of being members of land loser families. Ext.6 can not be said to be a appointment letter or promise letter to give employment to the signatories. Learned advocate Mr. Dasgupta further submits that Exts 4 & 8 are some documents which proved that some of the workmen were considered by the ONGCL for employment but it is found that Ext.8 is nothing but a work certificate in the case of Anil Das relating to year of 1983-84 and hence this document does not relate to relevant period and so it can not be presumed to be proved of appointing Anil Das after 1986. Secondly Ext.4 is a document acknowledged receipt of testimonials filed by Safiraddin Ahmed. The Hon'ble High Court already declared Safiraddin Ahmed as a labour contractor and so Ext.4 has no relevancy in the present case.

(f) Learned advocate Mr. Dasgupta further submits that Exts. 12 & 13 are also documents relating to appointing alleged workmen by ONGCL. After perusing Exts. 12 and 13 it is found that Ext.12 to ONGCL by Asstt. Employment Officer asking ONGCL to inform him for whether they have given top priority to land affected families in the

employment under ONGCL or not, and Ext.13 is also a correspondence by the Deputy Commissioner, Sibsagar to the Commissioner, Government of Assam, Home Deptt. requesting the latter to ask ONGCL to appoint the member of land affected families in the service of ONGCL. These two documents are not appointment order nor they signify that the workmen were appointed in any post. Thus the argument of Ld. Advocate Mr. Dasgupta is not sustainable, rather the argument of Mr. Choudhury that the alleged workmen were only contractual labour is sustainable.

Learned Advocate Mr. Dasgupta submits that Exts. 1, 2 and 3 are some documents issued to some workmen and these documents prove that workmen are direct employee under ONGCL. I have perused these documents and it is found that these three documents are letters issued to Safiraddin Ahmed regarding his candidature for a post and these are not in connection with other workmen. It is already found that Hon'ble High Court in the judgment dated 21-5-2004 [(WP(C) 8368/2001)] declared Safiraddin Ahmed as a labour contractor, so, it must be held that these documents are not proof of appointing the workmen by the management side. Secondly, Exts. 15, 16 and 17 are also not agreements to appoint workmen in posts under ONGCL, these are minutes of discussions on the claim of appointment by persons of land loser families of village Baliaghat and Changmai Gaon whose lands were acquired by ONGCL. So these documents cannot be presumed to be proof of appointing the workmen directly under the management.

(g) Learned Advocate Mr. Dasgupta further submits that exhibits A to G by which the management tries to establish that workmen are contractual labourers are sham document and alleged agreements are camouflage to cover the real status of the workmen. In rebuttal, Ld. advocate Mr. Choudhury submits that these are real documents i.e. agreements with labour contractors to provide security service in the drilling sites. After perusing the judgment of dt. 21-5-04 Hon'ble High Court in WP(C) 8368/2001 it is seen that Hon'ble High Court on the basis of these documents held that some workmen Safiraddin Ahmed, Jatin Ch. Nath, Sk. Noor Mohammad Ali, Atul Ch. Das, Rafiqul Hussain, Parag Phukan are labour contractors who provide security service in the drilling site. In view of that decision, I also hold that Exts. A to G are genuine agreement deeds and these also infer that other eleven workmen are contractual labourers.

(h) Learned Advocate Mr. Dasgupta further submits that the security service where workmen were engaged of perennial in nature and these eleven workmen have working continuously since 1986 and hence they are permanent employees as well as direct employees under ONGCL. In rebuttal, Ld. advocate Mr. Choudhury submits that the workmen have not been regularly working since 1986, and ONGCL has regular staff also to guard the drilling site. After scrutiny of evidence it is seen that the workmen fail to produce any kind of evidence to establish that they have

been working since 1986 without any break. So, it is not established that the workmen have been working since 1986 continuously as contractual labourer. Hence, the argument of Ld. advocate Mr. Dasgupta has no force. Thus it is proved only the fact that the workmen worked in different occasions only and they are not regular employees nor direct employees. On the other hand when it is established that out of 18 workmen, six are labour contractors who have presently also been providing security service to drilling site. This fact causes strong presumption that eleven workmen are contractual labourers under these site contractors.

(i) Learned advocate Mr. Choudhury submits that as per Section 101 & 102 of Evidence Act the burden is on the workmen to prove their claim that they are direct employees under ONGCL but not contractual labourers and while they failed to discharge that burden they cannot take benefit on weakness of evidence of the management side. In the present case it is found that the workmen side totally fail to discharge such burden. So, they cannot take weakness of evidence of the management side.

(j) From above discussion it is established that the eleven workmen of this reference case as enlisted above are contractual labourers who were employed by labour contractors in the relevant period and they were being paid by ONGCL through the labour contractors and they worked as contractual labourers during relevant period. Reverse it is held that the plea of connected workmen that they were employed and appointed by the ONGCL directly and they have been working under ONGCL as security guards under supervision of ONGCL since 1986 till today as direct employees under ONGCL, is not established at all.

11. Now let us remind whether the law permits regularisation of service of contractual labourers.

(a) Learned Advocate Mr. Choudhury submits that the regularisation of service of contractual labour prohibited under Contractual Labour (Regulation & Abolition) Act, 1970 and accordingly, these eleven alleged workmen are not entitled to regularization of their service. In support of his submissions he refers to a series of cases decided by the Apex Court and some other High Courts. He refers to a case decided by Constitutional Bench of consisting of 5 Judges (2006) 4 SCC.P.1. Secretary State of Karnataka & Others (Appellant) Vs. Uma Devi & Others. (Respondent). Referring that case Ld. Advocate Mr. Choudhury submits that the Supreme Court by that judgment strictly prohibited regularization of service of contractual labour, casual labour and other temporary workmen under the Govt. Deptt. and Govt. Undertaking. I have perused the said judgment of the Hon'ble Apex Court and found that Hon'ble Apex Court observed that "absorption, regularization, permanent continuance or permanent continuance of temporary, contractual, casual, daily wage and ad hoc employees appointed/ recruited and continued for long in public employment

dehors the constitutional scheme of public employment and such absorption, regularization permanent continuation of such workmen is not permissible; merely because an employee is continued under cover of an order of the court under litigious employment or had been continued beyond terms of his appointment by the State or its instrumentalities, he would not be entitled to any right to be absorbed or made permanent in service, merely on the strength of such continuance, if the original appointment was not made by following due process of selection as envisaged by the relevant rules; it is not open to the court to prevent regular recruitment at the instant of such employees; issuance of direction for absorption, regularization or permanent continuance of temporary, contractual, casual, daily wage or ad hoc employees amount to creating another mode of public appointment which is not permissible". Thus it is found that Hon'ble Supreme Court vide that judgment completely prohibited absorption, regularization or permanent continuance of temporary, contractual, casual, daily wage or ad hoc employees in service but directs to fill up the vacancies through advertisement and calling interview as per appointment rules. Guiding by that management, I hold that the eleven alleged workmen who are found to be purely contractual labourers are not entitled for regularization or absorption.

(b) Learned Advocate Mr. Asis Dasgupta also refers to a case which is U.P. Electricity Board Vs. Pooran Chandra Pandey, 2007, 11 SCC, 92 and submits that the ratio of Uma Devi's cases (Supra) is not to be followed in the present case. In rebuttal Ld. Advocate Mr. Choudhury refers to (2008) SCC 1, Official Liquidator (Appellant) Vs. Dayanand and Others (Respondents) and submits that the Bench consisting of three Judges of Supreme Court directly attacks the decision of two Judges bench in Puran Chandra Pandey's case and held that the decision of the said case cannot make ratio of Uma Devi's case in effective. I have read the decision of Uma Devi's case and it is found that Apex Court in that case observes that "by virtue of Art. 141, the Judgment of the Constitution Bench in Umadevi's case is binding on all courts including the Supreme Court till the same is overruled by a larger Bench. The attempt to dilute the rulings in Uma Devi's by the suggestion in Pooran Chandra Pandey case that Umadevi's case cannot be applied to case where regularization has been sought for in pursuance of Art. 14, held, is obiter and the two-Judge Bench in Pooran Chandra Pandey's case had no occasion to make any adverse comment on the binding character of the Constitution Bench judgement in Umadevi's case- and the comments and observations made in Pooran Chandra Pandey's case should be read as obiter and should neither be treated as binding by the High Courts, tribunals and other judicial fora nor should they, be relied upon or made the basis for bypassing the principles laid down in Umadevi's case".

After perusal of judgment in Dayanand's case it is found that the observation made by the Supreme Court in

Pooran Chandra Pandey's case should be read as obiter and should neither be treated as binding on High Courts, tribunals and other judicial fora nor should they be relied upon or made the basis for bypassing the principles laid down in Umadevi's case. Thus it is clear that the direction given by Supreme Court in Uma Devi's case is binding on all High Courts, tribunals and other judicial fora while they deal with the matter of absorption and regularization of service of casual labour, contractual labour, temporary employee. Thus it must be held that as per observation of Supreme Court in Uma Devi's case, the present workmen are not entitled to regularization of their service.

(c) Learned advocate Mr. Choudhury, by referring to decision of Apex Court in Steel Authority of India's case (Supra), submits that Sec. 10 Contractual Labour (Regulation and Abolition) Act, 1970 does not provide for regularization of service of contractual labourers. This submission of learned advocate Mr. Choudhury sustainable as because the said Act is applicable all over India.

(d) Learned advocate Mr. Choudhury again submits that the present dispute is not an industrial dispute as because no relation of employer and employee in between ONGCL and the eleven workmen is established having the claimants are only contractual labourers. He also refers LLJ 2007 P. 201, Post Master General, Kolkata and others Vs. Tutu Das decided by Supreme Court, have found that Supreme Court in that judgment decided that completion of 240 days of service is not relevant for regularization and daily rated labourers cannot claim regularization and if such labourers were terminated without complying that the provision of Sec. 25F of Industrial Dispute Act cannot be ground for regularization of his service. Thus in view of above judgment Hon'ble Apex Court not hold that in the instant case the workmen are not entitled to regularization of their service on the ground their long service under ONGCL as contractual labourers and that the submission of Ld. advocate Mr. Dasgupta that the workmen are entitled to regularization on the ground of long service has no force. Reversely, I also hold that the present dispute is not an industrial dispute having the workmen are labourers under the contractors and no employer and employee relation is created between ONGCL and them and that they are not workmen within the definition of Sec. 2(S) of Industrial Disputes Act nor their problem is industrial dispute under definition of Sec. 2 (K) of the Act.

(e) Learned advocate Mr. Dasgupta submits that ONGCL has set of Rules for absorption of contingent employees, and the present workmen are entitled to absorption under that Rules. I have perused that Rules which came into force on 15-7-1962. The Rules define "contingent employee" as (a) temporary and (b) casual employee but it does not include "contractual labour". Secondly, the workman side also fails to show existence of any policy of ONGCL for absorbing contractual labour. From the case referred by Ld. Advocate Mr. Choudhary—

i.e. State of Karnataka Vs. K.G.S.D. Canteen Employees Association 2006(109) FLR Page 18 it is seen that Apex Court observes that neither the court can frame scheme for regularization nor it can direct state to frame a scheme for regularization, even if the state frame scheme for regularization under Article 162 it can not override the scheme in term of Article 309 of the Constitution; what can be regularized is an irregularity and not an illegality, the constitutional scheme, which the country adopted, does not contemplate any back door appointment; a state before offering a public service to a person must comply with the constitutional requirements of Article 14 and 18 of constitution; all actions of state must confirm with the constitutional requirements; a daily wager in the absence of statutory provision in this behalf would not be entitled to regularization. Thus it is seen that cited case supports the submission of Ld. Advocate Mr. Choudhury.

12. Learned Advocate Choudhury referring to decision of Apex Court in 2006 AIR. SCW 6414 Gangadhar Pillai Vs. M/s. Siemens Ltd. submits that Apex Court observes that temporary employee can not be directed to be regularized even if they have worked for 240 days; the concepts of 240 days of work is not meant for regularization, it is meant for purpose of retrenchment compensation and in the event of violation of provision of Section 25F of I.D. Act direction may be issued for reinstatement in the same post and incumbents' service can not directed to be regularized. I have perused the said judgement and found that Bombay High Court says Mr. Choudhury submits. In another referred case of the management side-2007 1 CLR 48 Indian Drugs and Pharmaceuticals Limited Vs. Workmen, Apex Court observes that no right is vested in any daily wager to seek regularization, rules of recruitment can not be relaxed, temporary employee has no right to continue till superannuation which right the permanent employee has got, so direction can not be given in favour of temporary employee to continue in service.

In another referred case of Ld advocate Mr. Choudhury-i.e. U.P. Power Corporation Ltd. Vs. Bijli Mazdoor Sangha, 2007 AIR SCW 2776, Supreme Court observes that their case not be a case for regularization without there being employer—employee relationship; if a case fact situation is covered by what is stated in para 45 of Uma Devi's case (Supra) Industrial Adjudicator can modify the relief but that does not dilute the observation made by that court in Uma Devi's case about regularization.

In another referred case of management side, i.e. State of M.P. Vs. Jogesh Chandra Dubey, 2006(8) SCC page 72, Apex Court observes that where the workman did not hold any post, they are not entitled to regularization. "In view of above judgements, I hold that workmen of this case are not entitled to regularization as they are not holdings posts".

In another referred case of management side—Punjab State Warehousing Corporation Vs. Manmohan Singh and others, 2007(2) LLJ 519, Supreme Court, after taking note of decision in Uma Devi's case (supra), held that scheme for regularization of irregular appointment may be made out but not for illegal appointment. "In view of that observation of Supreme Court I hold that the workmen of the instant case can not claim regularization."

Learned advocate Mr. Dasgupta submits that the present workmen are entitled to regularization of their service. In support of his argument he also refers to certain cases (i) Hasan Bhai Vs. Utek Factory, 1970(4) SSC P. 258, (ii) Steel Authority of India cases 2001(7) SSC page 107, (iii) Secretary of Haryana Electricity Board Vs. Suresh, 1999 (3) SSC 601, (iv) U.P. Electricity Board Vs. Pooran Ch. Pandey Case, (2007) 11 SCC 92. I have examined all the cases submitted by Ld. Advocate Mr. Dasgupta. I have also examined the decision of the Hon'ble Supreme Court in Uma Devi's case as well as in Dayanand's case (supra) and it is found that the decision of Hon'ble Supreme Court in Uma Devi's case yet hold force in the event of setting aside the decision in Pooran Ch. Pandey's case by the judgement in Dayanand's case. Therefore, I hold that the argument of learned advocate Mr. Dasgupta is not sustainable and the workmen are not entitled to regularization.

Thus from above discussion it is crystal clear that the eleven workmen as named above are not entitled to regularization as they prayed. Even if it is presumed to have been proved that they belong to land loser families whose land were acquired by the ONGCL, then also this forum can not direct for regularization or absorption in any post of ONGCL having that dispute is not an industrial dispute but a private dispute. As these eleven workmen are not entitled to regularization of their service under ONGCL, they are not entitled to equal wages at par with regular employees. However there is no bar on them to work as a contractual labour under labour contractors as long as they wish and they are also entitled to get wages from the labour contractors at the rate of daily wages fixed by the Govt.

13. Because of what has been stated and discussed above, I hold that the eleven workmen namely : 1. Deba Kanta Das, 2. Sriparsad Das, 3. Basiruddin Ahmed, 4. Anil Ch. Das, 5. Dijen Kakati, 6. Pranab Borah, 7. Prafulla Das, 8. Bhadra Kanta Das, 9. Rupam Kr. Das, 10. Bipul Baruah, and 11. Bijit Das are not entitled for regularization or absorption in any post; and they are also not entitled to equal wages at par with direct counterparts (permanent security guard). In this way the terms of the reference are answered.

Given under my hand and seal on this the 15th day of May, 2009. Send the copies of this award to the Government.

MD. S. HUSSAIN, Presiding Officer

नई दिल्ली, 18 जून, 2009

का.आ. 1899.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सं. I, चण्डीगढ़ के पंचाट (संदर्भ संख्या 5/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-6-2009 को प्राप्त हुआ था।

[सं. एल-40012/88/2006-आई. आर. (डी. यू.)]
सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 18th June, 2009

S.O. 1899.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 5/2007) of the Central Government Industrial Tribunal-cum-Labour Court No. I, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 18-6-2009.

[No. L-40012/88/2006-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH

Case No. LD. 5/2007

Smt. Veero W/o Shri Joginder Singh, C/o Shri Dinesh Kumar & Shri Chaman Lal, Adv. 3431, Sector-15-A, Chandigarh.Applicant

Versus

The General Manager, Telecom, BSNL, Pathankot

...Respondent

APPEARANCES

For the workman : None

For the management : Shri Anish Babbar.

AWARD

Passed on 4-6-2009

Central Government vide notification No.L-40012/88/2006-IR(DU), dated 12-1-2007, has referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of General Manager, Telecom; BSNL, Pathankot, in terminating the services of their workman Smt. Veero, w.e.f. 14-4-2005 is justified and legal? If not, to what relief the workman is entitled to?”

2. Neither the workman is present nor represented by any one. Witness of the management is present from Pathankot. Learned counsel for the management is also present. On perusal of the order sheet, it is evident that for the last three dates fixed for the hearing of this case, workman has not ensured her presence. Even affidavits have not been filed by the workman.

Accordingly, at this stage I have no option otherwise than to return the reference as such to Central Government in the absence of the workman for non prosecution. Central Government be informed, file be consigned.

Chandigarh 4-6-2009

G. K. SHARMA, Presiding Officer

नई दिल्ली, 18 जून, 2009

का. आ. 1900.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल पॉल्ट्री ब्रिडिंग फॉर्म के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सं. I, चण्डीगढ़ के पंचाट (संदर्भ संख्या 94/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-6-2009 को प्राप्त हुआ था।

[सं. एल-42012/82/95-आई. आर. (डी. यू.)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 18th June, 2009

S. O. 1900.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 94/98) of the Central Government Industrial Tribunal-cum-Labour Court No. I, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Poultry Breeding Farm and their workman, which was received by the Central Government on 18-6-2009.

[No. L-42012/82/95-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH

Case No. I.D. 94/98

Shri Gurnam Singh, Village-Ramgarh Mandanan, PO-Morinda, Tehsil-Ropar.Applicant

Versus

The Director, Poultry Project Central Poultry Breeding Farm, Industrial Area, Chandigarh.

... Respondent

APPEARANCES

For the workman : Sri R. P. Rana

For the management : Sri K. K. Thakur

AWARD

Passed on: 9-6-09

Government of India vide notification no.L-420 12/82/95-IR (DU) dated 18-5-98 referred the following industrial dispute for judicial adjudication.

"Whether the action of the management of Central Poultry Breeding Farm Chandigarh, Industrial Area representing through its director in terminating the services of Sh. Gurnam Singh, Poultry Inspector w.e.f. 11-10-1977 is just and legal? If not to what relief the workman is entitled to and from which date?"

After receiving the reference, this Tribunal summoned both of the parties. The parties filed their respective pleadings which adduced the evidence.

On perusal of the pleadings and evidence of the parties, it is evident that dispute in question is relating to the shortage of 1,973 birds from the poultry farm from the custody of the workman. It is alleged by the workman that for shortage of 1,973 birds, fair and proper inquiry was not conducted and on the basis of violation of principle of natural justice he has prayed for his reinstatement into the service with all the consequential benefits after setting aside the termination order.

The management of poultry farm alleged that on shortage of 1,973 birds from the custody of the workman a departmental inquiry was conducted and on the basis of report filed in the departmental inquiry the service of the workman were terminated. The manager of the poultry farm was also held responsible for shortage of the birds in the departmental inquiry and 50% of the total costs of birds were ordered to be recovered from the workman. For recovery of Rs. 15,000, a civil suit was filed which has been decreed and the same has been confirmed by Hon'ble High Court.

It is also alleged by the management of poultry farm that against the termination order that the workman filed a civil suit in the Court or sub-judge and the suit of the

workman was dismissed. Against the order of Civil Court, an appeal was preferred by the workman in the Court of District Judge and the District Judge referred the same to the Central Administrative Tribunal on jurisdictional issue. The Central Administrative Tribunal heard the matter and dismissed the claim of the workman.

I have heard the workman in person. Opportunity for hearing was also afforded to the management of poultry farm but no one turned up.

On perusal of the materials on record, it is evident that on receiving a complaint regarding the shortage of birds from the poultry farm on 3-9-1973 a departmental inquiry was held. An enquiry officer was appointed. On perusal of the inquiry report and entire proceedings, it is further evident that enquiry officer provided all possible opportunity of being heard to the workman. During arguments, workman also conceded that he replied the charge-sheet and appeared before the enquiry officer. He also conceded during arguments that enquiry officer also conferred the opportunity to lead the evidence in defence.

Thus, on the statement of workman which he conceded during the argument before this Tribunal and after pursuing the entire materials on record, I am of the view that all possible opportunity of being heard during the departmental inquiry was given to the workman. Copy of the chargesheet was provided to him. He replied the charge-sheet. He has ensured his presence before the inquiry officer and he participate in all the inquiry proceedings. On perusal of the enquiry report and proceedings, it is also evident that copy of inquiry report was also provided to him, opportunity of personal hearing, and hearing on the proposed punishment was also conferred. Thus, I am of the view that fair and proper inquiry was conducted against the workman and there has been no violation of the principle of natural justice while conducting the inquiry by the enquiry officer and awarding the punishment by the disciplinary authority.

After termination order the workman preferred a civil suit before sub-judge which was dismissed. The District Judge during appeal for want of jurisdiction referred the matter to Central Administrative Tribunal and the Central Administrative Tribunal was kind enough to dismiss the claim of the petitioner by holding that there is no ground to interfere in decree passed by the Civil Court. The Central Administrative Tribunal cannot act as the Court of appeal in a matter against a decree passed by the Civil Court. The District Judge referred the matter to Central Administrative Tribunal on jurisdictional issue and Central Administrative Tribunal should have heard the matter afresh without taking any cognizance of the decree passed by the Civil Court.

Justice to any workman under the provision of Industrial Disputes Act cannot deny; just on the ground of delay. That is the reason that this Tribunal has considered all the issues raised by the workman.

As stated earlier, that there has been no violation of principle of natural justice while conducting the inquiry by the enquiry officer for awarding the punishment.

The decision of enquiry officer is apparently according to law. He has perused the evidence as per the rules of principle of natural justice while giving finding in his report. Likewise, the disciplinary authority has inflicted the punishment of termination of the workman from the services in proportionate of the committed misconduct. The workman has rightly terminated of his misconduct of shortage of 1973 birds. This punishment also finds favour by the decree of Civil Court for the recovery of Rs. 15,000 as 50% cost of shortage of birds.

Accordingly, this reference is answered that action of the management of Central Poultry Breeding Farm, Chandigarh in terminating the services of Sh. Gurnam Singh, Poultry Inspector w.e.f. 11-10-98 is just and legal and the workman is not entitled for any relief. Let the Central Government be approached for publication of award, and thereafter, file be consigned.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 18 जून, 2009

का. आ. 1901.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी. पी. डब्ल्यू. डी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय न. 1, नई दिल्ली के पंचाट (संदर्भ संख्या 43/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-6-2009 को प्राप्त हुआ था।

[सं. एल-42011/100/2006-आई आर (डी यू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 18th June, 2009

S.O. 1901.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 43/2007) of the Central Government Industrial Tribunal-cum-Labour Court, No. I, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of C.P.W.D. and their workman, which was received by the Central Government on 18-6-2009.

[No. L-42011/100/2006-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE DR. R. K. YADAV, PRESIDING OFFICER,
CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT NO. I NEW DELHI,
KARKARDOOMA COURT
COMPLEX, DELHI

I. D. No. 43/2007

Shri Guru Charan
Through The General Secretary,
All India CPWD (MRM) Karamchari Sangathan,
House No. 4823, Gali No. 13, Balbir Nagar Extn.,
Shahdara, Delhi-32

...Workman

Versus

The Executive Engineer,
'D' Division, CPWD,
Kidwai Nagar, New Delhi

...Management.

AWARD

Guru Charan Singh was employed as Plumber with Executive Engineer 'D' Division CPWD, Kidwai Nagar, New Delhi on 17-9-1971. He was entitled in situ promotion in the scale of Rs. 4000—6000 in pursuance of circular issued by the Director General (Works) CPWD on 3-12-92. He raised issue before the authorities, but to no avail. Conciliation Officer was approached by All India CPWD(MRM)Karamchari Sangathan in that regard, but conciliation proceedings failed. The appropriate Government vide its order No. L-42011/100/2006(IR(DU) dated 21-5-2007 opted to refer the dispute for adjudication to this Tribunal with following terms :

"Whether the demand of the All India CPWD(MRM) Karamchari Sangathan for grant of in situ promotion to Shri Guru Charan, Plumber w.e.f. 1-1-97 is legal and justified? If so, to what relief the workman is entitled to and from which date?"

2. Claim statement was filed by workman pleading therein that he was working as Plumber with the management, w.e.f. 17-9-71.

He was drawing maximum pay in the scale of Rs. 3050 to 4590 w.e.f. December, 1996. Director General (Works); CPWD issued orders on 3-12-91 for promotion for career advancement of group 'C' and 'D' employees. He was entitled for promotion in situ capacity w.e.f. 1st of January, 97. Clarification was issued by the management vide O. M. No. 22/24/2006-EC X dated 8-7-2006 wherein it

was stipulated that the workman was eligible for in situ promotion prior to 8th of August, 1989. Further guidelines were issued in that regard by the Director General (Works) CPWD on 1st of August, 2007. Despite these directions he was not given promotion in situ capacity. His discrimination in that regard was uncalled for. He claims that he is entitled for promotion in situ capacity in the pay scale of Rs.4000-6000 with 1st of December, 1997 along with fixation of pay and arrears of wages, besides interest.

3. Notice of the claim statement was sent to the management on 8-11-2007. Shri V.S.Verma, Head Clerk appeared before the Tribunal. Matter was adjourned for filing of the written statement. In between the workman was given promotion in situ capacity w.e.f. 1-1-97 in the scale of Rs. 4000-6000. His pay was fixed in that scale and all payments were released to him. The workman made a statement before the Tribunal, declaring therein that since he has been promoted in the scale of Rs. 4000-6000 in situ capacity w.e.f. 1-1-97, his claim stands satisfied.

4. Since the workman was promoted in the scale of Rs.4000-6000 in situ capacity w.e.f. 1-1-97, there remains no dispute to be adjudicated. Consequently, a No Dispute Award is passed. It be sent to the appropriate Government for publication.

Dr. R. K. YADAV, Presiding Officer

नई दिल्ली, 18 जून, 2009

का. आ. 1902.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी. पी. डब्ल्यू. डी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण न. 1, नई दिल्ली के पंचाट (संदर्भ संख्या 44/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-6-2009 को प्राप्त हुआ था।

[सं. एल-42011/84/2006-आई. आर. (डी. यू.)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 18th June, 2009

S. O. 1902.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 44/2007) of the Central Government Industrial Tribunal-cum-Labour Court No. I, New Delhi, as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of C.P.W.D. and their workman, which was received by the Central Government on 18-6-2009.

[No. L-42011/84/2006-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE DR. R. K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT NO. I NEW DELHI
KARKANDOOMA COURT
COMPLEX DELHI

L. D. 44/2007

Shri Balbir Singh,
Through The General Secretary,
All India CPWD(MRM)Karamchari Sangathan,
House No.4823, Gali No.13, Balbir Nagar Extn.,
Shahdara, Delhi - 32.Workman

Versus

The Executive Engineer,
'S' Division, CPWD,
R.K.Puram Kidwai Nagar, New Delhi.Management

AWARD

Balbir Singh was employed as Carpenter with Executive Engineer 'D' Division CPWD Kidwai Nagar, New Delhi on 7-9-1972. He was entitled in situ promotion in the scale of Rs.4000-6000 in pursuance of circular issued by the Director General (Works) CPWD on 3-12-91. He raised issue before the authorities, but to no avail. Conciliation Officer was approached by All India CPWD(MRM)Karamchari Sangathan in that regard, but conciliation proceedings failed. The appropriate Government vide its Order No. L 4201184/2006(IR(DU) dated 21-5-2007 has opted to refer the dispute for adjudication to this Tribunal with following terms:

"Whether the demand of the All India CPWD(MRM) Karamchari Sangathan for grant of in situ promotion to Shri Balbir Singh, Carpenter w.e.f. 1-1-97 is legal and justified? If so, to what relief the workman is entitled to and from which date?"

2. Claim statement was filed by workman pleading therein that he was working as Carpenter with the management, w.e.f. 7-9-72. He was drawing maximum pay in the scale of 3050 to 4590 w.e.f. 1-1-96. Director General (works) CPWD issued orders on 3-12-91 for promotion for career advancement of group 'C' and 'D' employees. He was entitled for promotion in situ capacity w.e.f. 1st of January, 97. Clarification was issued by the management vide OM No.22/24/2006 EC X dated 8-7-2006 wherein it was stipulated that the workman was eligible for in situ promotion prior to 8th of August, 89. Further guidelines were issued in that regard by the Director General (Works) CPWD on 1st of August, 2007. Despite these directions he was not given promotion, in situ capacity. His

discrimination in that regard was uncalled for. He claims that he is entitled for promotion in situ capacity in the pay scale of Rs.4000-6000 with 1st of December, 1997 along with fixation of pay and arrears of wages, besides interest.

3. Notice of the claim statement was sent to the management on 8-11-2007. Shri V.S.Verma Head Clerk appeared before the Tribunal. Matter was adjourned for filing of the written statement. In between the workman was given promotion in situ capacity w.e.f. 1-1-97 in the scale of Rs.4000-6000. His pay was fixed in that scale and all payments were released to him. The workman made a statement before the Tribunal, declaring therein that since he has been promoted in the scale of Rs.4000-6000 in situ capacity w.e.f. 1-1-97, his claim stands satisfied.

4. Since the workman was promoted in the scale of Rs.4000-6000 in situ capacity w.e.f. 1-1-97, there remains no dispute to be adjudicated. Consequently, a No Dispute Award is passed. It be sent to the appropriate Government for publication.

Dr. R. K. YADAV, Presiding Officer

नई दिल्ली, 18 जून, 2009

का. आ. 1903.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी. जी. एच. एस. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 16/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-6-2009 को प्राप्त हुआ था।

[सं. एल-42012/272/2001-आई. आर. (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 18th June, 2009

S. O. 1903.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award Ref. CGIT/NGP/16/2003 of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the management of Central Government Health Scheme, and their workman, which was received by the Central Government on 18-6-2009.

[No. L-42012/272/2001-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE SHRI A. N. YADAV PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT
NAGPUR.

Case No. CGIT/NGP/16/2003

Dated : 3-6-2009

Petitioner Sh. Gajanan Bisanji Vaidya
Quarter No. 105, Shastri Nagar
Nagpur -440008.

Party No.1

Versus

Respondent

The Additional Director
Central Government Health Scheme
Seminary Hills, Nagpur

Party No.2

AWARD

Dated 03-06-09

The Central Government of India after satisfying the existence of disputes between, The Additional Director Central Government Health Scheme Seminary Hills Nagpur No.1 and Sh. Gajanan Bisanji Vaidya Quarter No. 105, Shastri Nagar- Nagpur -440008 Party No. 2 referred the same for adjudication to this Tribunal vide its Letter No. L-42012/272/2001 IR (CM-II) Dt. 18-11-2002 under clause (d) of sub Section (1) and sub Section (2A) of Section 10 of Industrial Dispute Act, 1947 [14 of 1947] with the following schedule:—

“Whether the action of the Management of CGHS, Seminary Hills Nagpur in terminating the services of Sh. Gajanan Bisanji Vaidya w.e.f. 28-9-1990 instead of regularizing the services is legal and justified? If not, to what relief he is entitled to?

1. The petitioner approached to this tribunal with the contentions that he was engaged after calling his name from Employment exchange by the management on 1-5-1988 and worked till 30-09-88 on daily wages. He was paid at the rate of Rs 10 till 25-8-1988 and latter on Rs. 16.60 as wages per day. He was working from 6.30 am to 1 pm. He was posted at in the hospital of the management in Rambag unit No.5 and other dispensaries. He was performing the duties of taking signatures of employees on muster roll and all the other work as directed by the office including cleaning and closing the hospital. He was again appointed on 13-4-89 and discontinued on 30-9-89 According to him he worked as follows:

In 1988	from ——— 2-5-88 to 30-9-88
In 1989	from ——— 17-4-89 to 30-9-89
In 1990	from ——— 1-05-1990 to 28-09-90

2. On 3-5-91 settlement was arrived at, as he approached to the labour officer after his termination where in Management agreed to regularized him on getting the sanction of the post from the Govt. he further contended that Sh. Kawdu Pawanikar, Sh. Sewakram Gangadhar Paradkar, Sh. P.R. Patil and Mr. Shashi Bagade were absorbed

as Choukidar and peons though they were initially appointed as waterman avoiding him. However as per settlement he was again appointed as waterman as under

In 1993 from 20-4-93 to 30-6-93

In 1994 from 8-4-94 to 18-6-94

He again raised the dispute as he was terminated w.e.f. 18-6-94. He raised the grievances before Central Administrative Tribunal, Nagpur, where he was directed to raise the dispute labour court under Section 10 of I. D. Act.

3. Further, according to him he filed the statement of claim before the Industrial Tribunal No.2 at Bombay on 5-10-1995. However, he was again appointed from 8-6-96 and was removed from the service from 15-7-96. The Hon'ble Tribunal passed an Award on 22-6-96 declaring the action of the management is legal and justified. Then the Petitioner challenged the Award by filing the Writ Petition before the Hon'ble High Court in Writ Petition No.1584 of 97 requesting to reinstate with the continuity of the service with the consequential benefits. However, the Hon'ble High Court passed an Order while making the appointments in future even if the names are to be called from the Employment Exchange. This Order challenged by the Petitioner in LPA No.44 of 99 wherein the LPA by Order dt.20-11-2000 that if he wishes to raise the dispute regarding regularization on the ground subsequently employees were regularized. He must raise the dispute before the Industrial Tribunal and therefore he withdraws the LPA.

4. After this Order he filed the statement of claim before the Industrial Tribunal, Nagpur after filing the statement of claim before Labour Commissioner (Central) at Nagpur. Further, according to him, as per Govt. Circular dt.10-9-93 also he is entitled for regularization in Class-IV cadre. He is the senior most in the cadre of Class-IV employee and he has right for getting absorption on regular basis in cadre Group (D) and also has a right of being appointed on regular basis. He has requisite qualification. He has failed in 8th Std. He has been issued Identity Card of Handicapped candidate dt.14-11-2002 by the Social Welfare Officer, Zilla Parishad, Nagpur for reservation of the post, seats for handicapped person. He is getting a concession from the railway as well as ST buses. He was appointed for the post of Waterman by an Order dt.27-4-2000 for summer vacation. However, as he was admitted in the hospital and was not able to join the duties; he gave the leave application. In the year 2001 he was again appointed on the post of Waterman in summer season. However, as the Petitioner being disable and handicapped he could not join. He requested the management to refer his case for medical board for appointment to the post of group D cadre in reservation category of handicapped

person and he be made permanent. Similarly in the year 2002 and 2003 also consequent upon the receipt of order of appointment for summer season of the year 2003 the petitioner instead of joining the duties as a Waterman requested to refer him to the medical board because he had become handicap. However Party No.1 did not consider his request. Thus according to him the management has violated the provision of Section 25C, 25G and 25F of Industrial Disputes Act and Rule 77 of Industrial Dispute (Central) Rules 1957. Finally he prayed to regularize his services in Class-IV cadre on permanency basis w.e.f. the date on which his juniors were absorbed and he may be granted consequential benefit.

5. The management appeared and filed its Written Statement resisting the claim of Petitioner. It has contended that it is the fourth round of litigation resorted by the Petitioner. He has approached to all the forums on the same ground, with the same request and on the same cause of action. According to it at Nagpur during summer season in all the Central Government as well as the State Government Offices for keeping the offices cool make the arrangement of Khas tatties for which a separate funds are sanction by the Competent Authority. Previously about the 15 years back Khas tatties were installed and workers were engaged through Employment Exchange to fetch the water and sprinkle it on the Khas tatties. They were paid daily wages as fixed by the respective Collectors. On the introduction desert coolers to store the water and refill the coolers, the daily wagger both men and women are engaged through employment exchange and paid minimum daily wages as fixed by the competent authority. They are purely seasonal worker employed for the specific period and though they are called as a Waterman their work is not of a perennial nature. The Petitioner was engaged as daily wagger for the work of sprinkling water during summer season of 1998 as his name was sponsored by the employment exchange with other workers. His services were discontinued after the work was over.

6. There is no regular cadre of a Waterman in any of the offices as work is of seasonal nature. The Central Administrative Tribunal as well as the Central Govt. Industrial Tribunal- cum-Labour Court has already passed the Awards Shri Dilip Sondawale who was engaged as a Waterman for a particular summer and had requested for regularization. His O. A. was dismissed by the C.A.T. on 14-12-1994. Similarly the Petitioner had also filed O. A. bearing No.1279 of 1992 before the CAT and the petitioner has withdrawn it. The Petitioner had raised the dispute before Central Govt. Industrial Tribunal vide reference No. CGIT 2/18 of 1995 and the Tribunal on 22-10-1996 justified his termination as legal and proper. Besides this the

Petitioner has challenged the Award dt.22-10-96 of CGIT before the High Court judicature at Bombay Nagpur Bench in writ Petition No.1584/97. The Hon. H.C. maintained the order of the Tribunal holding that the Order of CGIT was proper and gave direction to the management to give preference to him whenever the seasonal daily wager are to be engaged. He challenged the above Order in latter patent appeal No.144 of 99 which was dismissed as withdrawn. However a liberty was given to seek appropriate remedy from the appropriate court in case he wants to challenge his termination on the ground that his junior were retained. Thus according to him this is the fourth round of litigation on the same ground and facts before CAT, CGIT and the Hon'ble High Court. In fact it is res judicata. This is nothing but the abuse of process of law.

7. Having submitting the above history it has denied all the contention of the Petitioner it has denied that the management had ever agreed that it would give a regular employment. It was agreed even without sponsoring from the employment exchange for the engagement of waterman during the summer season he would be considered for engagement. Accordingly he was subsequently engaged in summer season. Shri Kaudu Paunikar and others were selected for the appointment to the Group D posts as per rules as they were sponsored by the employment exchanged and they were not appointed or absorbed on the ground that earlier they were working as a waterman. There is no seniority list of daily wager engaged for seasonal work. Similarly it was not necessary for the management to refer him to the medical board as he was not an employee and there was no relationship as an employer and employee. Thus according to him there is no substance in the claim of the Petitioner and it deserved to be dismissed in limine with exemplary costs.

8. The petitioner has adduced his evidence on the affidavit. No body appeared for the management and cross-examined the petitioner. In fact except filing the W.S. no body has taken any interest on behalf of the management even the copy of the arguments, submitted by him is not taken. What ever it may be let us consider the merits of the case. It is undisputed that he was engaged during summer season as indicated by the petitioner in his statement of claim. The management denies that he was appointed on any permanent and sanctioned post. There is no post or cadre of the waterman. He was appointed as seasonal employee for sprinkling the water on the khas tatties during summer season only on daily wages. The submissions of the management seems to true that this is the fourth round of the litigations. Earlier he has approached to all forums except Honorable Apex Court. He in beginning approached to Central Administrative Tribunal, State Labour Court,

C.G.I.T. Mumbai, Hon'ble High Court (Single Bench) letter Pendant court, and again before then C.G.I.T. Nagpur. The Hon'ble Division Bench of the H.C. has given the order to give him the preference while giving appointments obviously as seasonal worker for fetching and sprinkling water on khas tatties and the management is undisputedly following it. However the petitioner claims that he should be regularized as permanent workman in group "D" cadre. The claim of the petitioner was already rejected by all the authorities. He was engaged and hardly worked continuously for three to five months only. The details of the working period is given above which makes clear that he never completed 240 days continuous service in one year. His appointment orders are also clear enough to show that he was appointed as seasonal employee only during summer season. In view of the reported case of Umadevi the management has right to appoint for particular period and purpose. Therefore the management has committed no wrong in refusing the permanency to him.

9. He has given the names of above persons who are alleged to be junior to him were later on given appointments. In fact there is nothing to show that they were regularized or absorbed on the basis of their earlier seasonal services as Waterman. No seniority is required to be maintained of seasonal workers. Their appointment in group "D" has no concern at all with the previous service as waterman. They were appointed separately as they were successful in process. They were not absorbed hence there cannot be a comparison with them. Neither he can be regularized nor can the compensation be awarded to him U/s 25(F) or 25(G) on this ground. He is not entitled for the compensation.

10. Further he has claimed the regularization on the Office Memorandum dated 10-9-1993 but this circular is not helpful to the petitioner because it does not cover the seasonal workers. He has never rendered continuous service for one year or 240 days which is necessary for U/s 25 (F). The petitioner worked as seasonal employee only for the short period as enumerated above. He can not be regularized on the basis of this Office Memorandum dated 10-9-1993 also.

11. No doubt the management has not adduced any evidence or the notes of arguments but it will not get any right due to their absence. The workman has to prove his case independently. The petitioner is not entitled for regularization or for retrenchment compensation. The claim of the petitioner has no substance. It deserves to be dismissed. The action of the management is proper and legal. Hence this negative Award.

A. N. YADAV, Presiding Officer

नई दिल्ली, 18 जून, 2009

का.आ. 1904.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं सी.जी. आई.टी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 100/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-6-2009 को प्राप्त हुआ था।

[सं. एल-42012/136/2001-आई.आर.(सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 18th June, 2009

S.O. 1904.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.100/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the management of Indian Telephone Industries Ltd., and their workmen, received by the Central Government on 18-6-2009.

[No. L-42012/136/2001-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

Present : Shri N. K. Purohit, Presiding Officer

I. D. No. 100/2002

Ref. No. L-42012/136/2001-IR(CM-II) dated : 28-5-2002

BETWEEN

Sh. Lakshmi Prasad Trivedi
Acharya Nagar, Dr. J.P. Singh Road,
Near Alok Vidyalaya, Town & Post Lalganj
Raebareilly

AND

The Executive Director
Indian Telephone Industries Ltd.
Doorbhas Nagar
Raebareilly

AWARD

29-5-2009

By Order No. L-42012/136/2001-IR(CM-II) dated : 28-5-2002 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sh. Lakshmi Prasad Trivedi Acharya Nagar, Dr. J.P. Singh Road, Near Alok Vidyalaya, Town & Post Lalganj Raebareilly and the Executive Director Indian Telephone Industries Ltd. Doorbhas Nagar Raebareilly for adjudication.

"Whether the action of the management of Indian Telephone Ltd. Raebareilly in removing Sh. Lakshmi Prasad Trivedi from services w.e.f. 23-4-1982 is legal and justified? If not, to what relief the workman is entitled to?"

2. Background facts in nutsheel are as follows :

The workman Sh. L.P. Trivedi was employed as category D Clerk in the Indian Telephone Industries Limited, Raebareilly and charge sheet dt. 6-7-81 for alleged misconduct mentioned therein, was served upon him. The workman replied the said charge sheet vide his reply dt. 7-7-81. The management of Indian Telephone Industries Limited, Raebareilly not satisfied with the explanation, initiated departmental enquiry against the workman by appointing Dy. Manager Sh. Sunil Kumar as enquiry officer. The enquiry officer vide his letter dt. 18-8-81 fixed 30-8-81 for enquiry and informed the workman that he may engage his representative to defend the case. The worker vide his letter dt. 26-8-81 sought adjournment. The worker vide his letter dt. 25-10-81 requested for postponing the enquiry proceedings till 31-12-81 as he is on leave without pay. The enquiry officer fixed another date for departmental enquiry as 1-11-81. In the circumstances ex-parte proceedings took place and the enquiry officer after considering the entire material submitted his report dt. 18-12-81. Subsequently, the workman was removed from services vide impugned order dt. 23-4-82.

*3. After his removal from services' the workman filed a conciliation case before Conciliation Officer, Lucknow under UP I.D. Act, 1947 there upon the workman's case referred by the U.P. Government to the IT(II) Lucknow. It held that the domestic enquiry conducted by the employer was not just & fair. Subsequently, the management filed a writ petition no. 4061/84 in Hon'ble Allahabad High Court, on 14-8-84 against the above order which was dismissed for non-prosecution. At the stage of management evidence, before I.T.(II) in I.D. case no. 94/83, an application challenging the jurisdiction of the I.T.(II) by the management stating therein that the reference of U.P. Government is bad in law and the I.T.(II) has no jurisdiction to proceed further in the matter as the State of U.P. was not appropriate government as far as Indian Telephone Industries Ltd, Raebareilly is concerned & ultimately the said objection was accepted by the I.T. (II), Lucknow. Subsequent to this, the industrial dispute was raised before the concerned competent authority. Failure of the conciliation proceeding necessitated the appropriate government to refer the matter for adjudication before this Tribunal.

4. The case of the workman is that he was on sanctioned study leave without pay and was out of station during enquiry. He had requested for postponing the enquiry till he resume duty but the request was not granted and instead an ex-parte enquiry was

surreptitiously and hurriedly completed within a week without informing the workman that the enquiry would be conducted ex-parte. If the management was really convinced about the gravity of the charges leveled against the workman and were very earnest and wanted to complete the enquiry within a specified period, they could have cancelled workman's leave and recalled him to duty to launch formal disciplinary proceedings against him. Though that would have appeared a bit harsh but no one could have doubted in the fairness of such an action because that would have provided the workman an opportunity to associate himself with the conduct of enquiry and in the process be convinced of its fairness. The workman has also alleged that he was selected for appointment against the post of category 'D' Clerk but was unjustly made to join on the lower post of category 'C' Clerk and when he protested against this injustice, the employer launch disciplinary proceeding in retaliation.

5. The management has submitted that enquiry conducted was perfect, fair and proper and the workman attended the enquiry on 25-10-81 and sought adjournment beyond 31-12-81 on various grounds. The enquiry officer denied his request after due consideration and fixed the next date 1-11-81 but the workman did not attend the enquiry on the said date and did not send any communication to the enquiry officer seeking adjournment for said date and did not send any communication to the enquiry officer seeking adjournment for his non appearance. Under the above circumstances enquiry was conducted ex-parte and there is no violation of principle of natural justice. Before deciding the case on merit, the then Learned Presiding Officer on 11-10-2002 framed following two issues.

- 1 क्या श्रमिक के विरुद्ध विभागीय जांच त्रुटिपूर्ण है अथवा नहीं ?
- 2 क्या जांच अधिकारी की आस्था दुराग्रहपूर्ण (परवर्स) है ?

6. Both the sides filed documentary evidence and the worker examined himself whereas the management examined Sh.V.K.Singh in support of their respective case. After hearing both the parties, while deciding the preliminary issue No. 1 in favour of the workman, following order was passed by the Tribunal on 26-7-2006;

"The departmental enquiry vitiates as the same is in violation of the principles of natural justice. Management is directed to file the documentary evidence and list of witnesses on 13-9-06 as stated in the body of the order. There is no question of proceeding on issue No. 2 as the enquiry has vitiated."

7. In pursuant to said order management submitted a list of witnesses C-37 and list of documents C-38 and examined Smt. Sashi Bala Singh on 3-5-07 in order

to prove charges leveled against the workman for alleged misconduct mentioned in the charge sheet. In rebuttal, the workman has examined himself on 9-8-07.

8. Heard the learned representatives of both the sides and scanned the relevant material on record.

9. It is pertinent to mention that the proviso of section 11A envisages that in any proceedings under this section, the Tribunal shall rely on the material on record and shall not take any fresh evidence. But in the matter of Neeta Kaplish vs Presiding Officer, Labour Court and another while considering the question of material evidence under Section 11A of the I. D. Act, Hon'ble Apex Court has held;

"In all cases where enquiry has not been held or the enquiry has been found to be defective labour court/tribunal can call upon the management or the employer to justify action taken against the workman and to show by fresh evidence that the termination or dismissal order was proper. If management does not lead any evidence by availing of this opportunity, it cannot raise any grouse any subsequent stage that it should have been given that opportunity, as the Tribunal, in those circumstances, would be justified in passing an award in favour of the workman. If however, opportunity is availed of and evidence is adduced by the management, validity of action taken by it has to be scrutinized and adjudicated on the basis of such fresh evidence."

"It is a fallacious argument that it was open to management to rely upon domestic enquiry proceedings, including the evidence recorded by the Enquiry Officer, and that management was under no obligation to lead further evidence, particularly as the management was of the view that the charges against appellant stood proved on the basis of evidence lead before the Enquiry Officer. It is also not correct to say enquiry proceedings constituted material on record under Section 11-A and they could not be ignored."

"Records pertaining domestic enquiry would not constitute 'fresh evidence' as those proceedings have already been found by the Labour Court to be defective. Such record would also not constitute 'material on record', within the meaning of Section 11-A as the enquiry proceedings, on being found bad, have to be ignored altogether. The management for a limited purpose of showing at the preliminary stage that the action taken against the appellant was just and proper and that full opportunity of hearing was given to her in consonance with the principles of natural justice. This contention has not been accepted by the Labour Court and the enquiry has been held to be

bad. In view of the nature of objections raised by the appellant, the record of enquiry conducted by the management ceased to be "material on record" within the meaning of Section 11-A and the only course open to the management was to justify its action by leading fresh evidence before Labour Court. If such evidence has not been led the management has to suffer the consequences."

10. In view of the above legal position the proceedings of the domestic enquiry including evidence recorded by the enquiry officer, is to be ignored to prove charges leveled against the workman and to justify action against the workman. The management can only rely on fresh evidence i.e. evidence adduced subsequent to the order dt. 26-7-06 passed by the Tribunal whereby the proceedings of the domestic enquiry held vitiated due to violation of principle of natural justice.

11. In the charge sheet. dt. 6-7-81, the charges levelled against the workman for alleged misconduct are as under :

"आपके द्वारा लिपिक पद श्रेणी सी वर्ग (डी) का पद भार सेवा अनुबन्ध के अनुसार दिनांक 2-6-78 से संचालित किया गया किन्तु सेवायें स्थाई होने के उपरान्त आपके द्वारा अपने कुछ सहकर्मियों अन्य वरिष्ठ कर्मचारियों को सुपरसीड करते हुए (बी) श्रेणी को प्राप्त करने के हेतु अभ्यावेदन देने हेतु उकसाया गया। जब आपके अभ्यावेदन पर विचार हो ही रहा था आपने बिना उचित माध्यम के मन्त्रालय से सीधा सम्पर्क स्थापित किया तथा मन्त्रालय के निर्णय की प्रतिक्षा किए बिना ही आपके द्वारा पुनः राजनैतिक व्यक्तियों से सीधा सम्पर्क स्थापित कर प्रबन्धक मण्डल पर जोर डलवा कर अपना स्वार्थ सिद्ध करने की कोशिश की गई।

आपके द्वारा बहुत सी असत्य बातें अखबारों में छपवा कर कम्पनी तथा प्रबन्धक मण्डल की गलत रूप से आलोचना करके संस्थान की छवि को धूमिल किया गया तथा इसके लिए आप कार्यालय से अनधिकृत रूप से संकेतित पत्राई ले गये एवं पत्राकों की प्रतियां अनधिकृत रूप से कम्पनी, जिनका तथा अखबारों की कटिंग का प्रकाशन आपके द्वारा कम्पनी परिक्षेत्र एवं बाहर किया गया।

आपके द्वारा यह धमकी दी गई कि यदि किसी अधिकारी द्वारा आपके कुकृत्य की शिकायत करने की कोशिश की गई तो आप अपने सहकर्मियों से झूठी गवाही दिलाकर उन्हें बड़े मामले में फंसा देंगे।

आपने अखबारों में इस आशय की झूठी खबर छपाने की व्यवस्था की कि "आई. टी. आई. के कर्मचारियों की रद्दी विक्रेताओं द्वारा बिक्री" जिससे अनधिकृत रूप से फर्जी ले जाने पर आप अपने आपको चोरी के आरोप से बचा सकें।

आपके द्वारा प्रेस में "प्रष्टाचार उन्मूलन समिति का गठन" शीर्षक से समाचार पत्रों में छपवा कर कम्पनी को कलंकित करने का प्रयास किया गया है।

आपने अपनी स्वार्थ सिद्धि की प्राप्ति हेतु परिस्थितियों एवं तथ्यों को तोड़ मरोड़कर निन्दनीय ढंग से प्रस्तुत किया है जिसकी कि कम्पनी के कर्मचारी से कल्पना नहीं की जा सकती।

आपका उक्त कृत्य एवं आचरण कम्पनी के स्थायी आदेशों के निम्न प्रावधानों के अन्तर्गत दुराचरण है :-

14. Abetment of or attempt to commit, or commission of any misconduct or act subversive of discipline.
- 14.5 Approaching higher or political authorities direct or through other person or exerting external pressure for promotion, transfer or any other gain or in connection with any representation except through proper channel. If any person writes or otherwise brings political or other pressure to further workman's case it will be assumed that he has done so with the knowledge and approval of the concerned worker and he (worker) will be liable for action under sub-para above.
- 14.17 Disclosing to any unauthorised person or persons any information in regard to the working or process of the factory, which comes into the possession of the employees during the course of their work.
- 14.24 Distribution or exhibition within the Company's premises of any newspaper or bills or pamphlets or posters without the previous sanction of the Manager.
- 14.28 Collecting of signatures for collective representation during working hours.
- 14.31 Theft, fraud, or dishonesty or wilful damage in connection with the Company's business or property or any of the organizations sponsored by the Company.
- 14.32 Gambling, drunkenness, riotous, disorderly or indecent behaviour or any act subversive of discipline or efficiency in the premises of the Company.
- 14.33 Threatening or intimidating, molesting or assaulting any employee or employees of the Company in connection with and/or arising out of his employment with the Company.
- 14.46 Not maintaining absolute integrity or not maintaining devotion of duty which is expected of a loyal employee of the Company.
- 14.54 Breach of any Standing Order, violation of any condition or contract of employment or lawful

instructions issued by the Management from time to time and for the time being in force.

आपकी अनुशासनहीनता की पराकाष्ठा के प्रति गैर जिम्मेदारीपन तथा सत्यनिष्ठा के अभाव को ध्यान में रखते हुए विचारणीय है कि आपकी सेवाओं को चालू रखना कम्पनी के स्थाई आदेश अनुच्छेद 18(1) के अन्तर्गत कम्पनी के हित में कहाँ तक है।

अतः आप निम्न हस्ताक्षरकर्ता को इस आरोपपत्र की प्राप्ति के तीन दिन के अन्दर अपना लिखित स्पष्टीकरण इस सम्बन्ध में दें। यदि आपने अपना स्पष्टीकरण उपरोक्त समय में न दिया तो यह समझा जायेगा कि आपको इस सम्बन्ध में कोई स्पष्टीकरण नहीं देना है और इस सम्बन्ध में अनुशासन की यथोचित अग्रिम कार्यवाही की जायेगी।"

कृते इण्डियन टेलीफोन इण्डस्ट्रीज लि.

हस्ता

अधिकृत अधिकारी

12. To prove the aforesaid charges, the management has examined Smt. Sashi Bala Singh who has stated that period from 9-9-75 to 17-10-2002, she was working under the opposite party as Sr. Administrative Office Asstt. She has not deposed anything against the workman regarding alleged charges. She has stated that Anil Garg, S. N. Dhobal, Manju Lal, B. N. Gupta, Ajay Sharma, M. P. Pillai and Arvind Agarwal are now not working in the company. She has further stated that either they have retired or left the services and their present address not available and they are not available on the address given by them. She has further stated that documents in file A2-18 which have been mentioned in the list of documents A2-17, bear the signatures of said persons. She has further stated that documents filed alongwith list of documents C-38 also bear the signatures of the aforementioned persons. In cross-examination she has admitted that the workman had never worked with him. When chargesheet was issued by Karmik Vibhag to the workman, she was in Personal Section and she had not dealt with the file of the workman. She has also stated that she had heard about the death of Sh. S. N. Dhobal. As regard remaining witness she was not sure whether they are still alive or not. She has also shown her ignorance about their retirement.

13. In rebuttal, apart from reiterating the averments made in his statement of claim, the workman has stated that the representation dt. 10-12-78 against the unjust act of the management appointing him against the post of category D Clerk instead of category 'C' Clerk, was submitted by him through proper channel and later on in this regard a joint representation was also given to the Prime Minister on 18-1-1980 by A. K. Choudhry, and said

matter was also raised by the union but the management deliberately started corresponding with the workman by addressing the reply to the said representations in his name to save Sh. R. C. Srivastava, who was working in Karmik Vibhag. This was done to create evidence against the workman for initiating proceedings against him.

14. The learned representative on behalf of the management has contended that charges levelled against the workman stand proved by the documents filed by the management and secondary evidence of Smt. Sashi Bala Singh. He has further submitted that soon after removal from service, the workman made a request dt. 27-5-82 for issuance of experience certificate for the purpose of organisation in Bar Counsel, Allahabad and got enrolled himself as an Advocate on 11-6-82 and he is a practicing lawyer. Thus the movement the workman got himself register with Bar Counsel of U.P. he ceased to be a workman under I.D. Act. He has also submitted that the Enquiry Officer, Presiding Officer and other witnesses have left organization long back and they are not available on the addresses available with the company. Sh. S. N. Dhobal has expired long back. In such circumstances no primary evidence could be produced. Smt. Sashi Bala Singh the then Asstt. Manager (HR) has been examined to prove the signatures of the Enquiry Officer presenting officer and other witnesses on the relevant documents pertaining to domestic enquiry. In support of his contentions he has relied on 2007 (112) FLR 865 SCC Muir Mills Unit of NTC (U.P.) Ltd. and Swayam Prakash Srivastava and another and 2007 (114) FLR 1176 Peter Ramesh Kumar and Director, Marshalls Power and Communication India (P) Ltd., Chennai and others.

15. Per contra, the learned representative on behalf of the workman has urged that charges against the workman are vague and ambiguous. There is no specific allegations and particulars about date, time and persons. He has also urged that mere production of the documents by the management does not amount to proof. The management has failed to prove the documents filed to substantiate the charges. He has urged that material witnesses has not been examined by the management and no fresh evidence has been adduced by the management to prove the alleged charges. He has further urged that the workman has denied the alleged charges in his statement on affidavit but as regards alleged charges there is no cross-examination by the management side. He has further urged that management has filed only photocopies of clippings of the newspapers but the same have not been proved. Photocopies of the documents are not admissible moreover, judicial notice can not be taken of the facts stated in the news items being nature of secondary evidence and only hearsay evidence. It is also urged that it is evident from the chargesheet itself that punishment for the alleged misconduct is also proposed

in the chargesheet itself. Therefore, on this ground also proceedings have been vitiated.

16. In support of his contentions reliance has been placed on the following case laws :—

1. 1969 AIR, AP 155 PK Swami Vs. South Eastern Railway.
2. 1986 SCC (L&S) 662 Sawai Singh Vs. State of Rajasthan.
3. 1961 AIR, Calcutta Page No. 40 Amulya Ratan Mukherjee Vs. Dy. Chief Mechanical Engineer Eastern Railway and others.
4. 1963 AIR, Tripura Page No. 20 Union of India Vs. Kula Chandra Sinha.
5. 1963 AIR, Allahabad Page No. 55 Vijay Lakshmi Sugar Mills Vs. Mathura Prasad and others.
6. 1971 AIR SCC Page No. 752 Surath Chandra Chakraborty Vs. State of Bengal.
7. 2001 AIR SCC 3207 Rajinder Prasad (dead) by L. Rs. Appellant Vs. Smt. Darshana Devi Respondent.
8. 1975 AIR SCC 1748 Ashok Duli Chand Vs. Madhav Lal Dubey and Another.
9. 1988 AIR SCC 1274 Laxmi Raj Shetty Vs. State of Tamilnadu.
10. 1971 (2) SCC 617 M/s. Bareilly Electricity Supply Co. Ltd. Vs. The workman and others.

17. I have given my thoughtful consideration on the rivals submissions of both sides.

18. The contention of the learned representative on behalf of the management that after registration of the workman as an Advocate in the Bar Counsel of Uttar Pradesh, he seized to be a workman is not sustainable. The facts of the case laws cited in support of his contention are different. In 2007 (112) FLR 865 SCC the respondent was offered appointment as Legal Assistant in the litigation section in Muir Mills a subsidiary of the NTC Ltd. and the question under consideration was whether a legal assistant is a workman within the definition of Section 2(z) of the U.P. I. D. Act. In view of the above facts Hon'ble Apex Court held that respondent No. 1 is a professional and never can be professional be termed as workman in any law. Similarly in 2007 (114) FLR 1167 SCC petitioner was a practicing lawyer who worked for respondent company and made certain claims against the company claiming that he is entitled to get Travelling allowance and 3 months pay. In this context Hon'ble Madras High Court held that petitioner was an expert in law who agreed to act as consultant therefore, he is not workman under Section 2(s) of the I. D. Act. But in present

case admittedly the workman was initially appointed as category 'D' clerk in ITI, Raibareilly and subsequent to his termination from service, he got himself registered as an Advocate. In above facts and circumstances when his services were terminated, he was a workman within definition of Section 2(s) of the I. D. Act. Therefore, the principle laid down in the case laws cited by the learned representative on behalf of the management are not applicable in the facts and circumstances of the present case.

19. In 1986 SCC L&S 662 Sawai Singh Vs. State of Rajasthan has observed that charges involving consequences of termination of service must be specific, & there must be fair play in action particularly in a departmental enquiry entailing adverse penal consequences like loss of job which means loss of livelihood. In 1971 AIR SC 752 Hon'ble Apex Court held that without giving the particulars as to date, time, place and person charge is vague. In 2007(1) SCC L&S 254 Government of Andhra Pradesh and others Vs. Venkata Raidu, the alleged charges against the delinquent was regarding violation of Government order but details of that order were not mentioned in the charge, Hon'ble Apex Court observed that charge sheet should not be vague but should be specific and the authority should have mentioned the date of Government order said to have been violated by the respondent and the number of the Government order etc. Since the charge was not specific, hence no findings of guilt can be fixed on the basis of that charge. In 1991 SCC L&S 249 K. Singh Vs. Commissioner of Police Hon'ble Apex Court has observed that document not mentioned in the charge sheet can not be relied on or even referred to by disciplinary authority.

20. Thus it is well settled legal position that charge sheet must be specific and must set out all the necessary particulars. The delinquent should be told of the charges to which he is called upon to show cause and the charges must be specific and particulars must be stated without which a delinquent cannot defend himself.

21. In present case in charges levelled against the workman, it is alleged that workman encouraged co-workers to give their representation without proper channel. The names of the co-worker said to be encouraged by the workman have not been mentioned. It is also alleged that when the representation of the workman was under consideration he approached the political person directly and tried to pressurize the management without waiting the decision of the concerned Ministry. But no name of any political leader through whom the workman allegedly pressurized the management is disclosed. Moreover, it is not clear to whom such representations were made and who were the persons in the management said to be pressurized by the workman.

It is further alleged that the workman got published false allegations in the news paper and thereby tarnished the image of the company but charge in this regard is very vague neither particulars of the newspapers have been given nor contents of the alleged false facts have been mentioned.

22. It is further alleged that the workman taken away the relevant file and unauthorised copies of letters and news papers clippings which were later exhibited within the company premises, but neither particulars or details of file nor the letters said to be distributed and exhibited by the workman have been mentioned.

23. It is also alleged that the workman threatened the officers of the company to implicate them in false case if any complaint is made against him but no particulars have been given regarding when and whom he gave such threatening.

24. In charges levelled against the workman it is further alleged that the workman arranged to publish news alleging that the documents of the ITI have been sold in order to create defence for alleged charge for taking away files of the company unauthorisedly & he also got published news regarding constitution of a committee for removal of corruption to tarnish the image of the company. But neither the name of the news paper, date of publication is mentioned nor the contents of the news said to be published have been mentioned. It is further alleged that the workman misrepresented the facts and circumstances to serve his own interest. But it is not clear what facts and circumstances were misrepresented by him.

25. Moreover, there is no separate statement of allegation alongwith charges levelled against the workman giving all necessary particulars, which would satisfy the requirement of giving reasonable opportunity to put up defence. It is evident from the record that the workman repeatedly brought it to the notice of the management concerned that charges are extremely vague and indefinite despite this, the management did not furnish facts, circumstances, and particulars relevant to the charges. It is also evident from the bare perusal of the charges levelled against the workman that same are general in nature and neither particulars pertaining to date, month or year of alleged misconduct are mentioned nor particulars of any documents or person have been mentioned in the alleged charges. Thus, there is force in the contention of the learned representative on behalf of the workman that charges very vague and the workman can not held guilty on such charges.

26. This legal position is not disputed that statement written or verbal, of relevant facts made by a person who is dead, or who can not be found or, who is incapable of giving evidence, or whose attendance can not be procured without an amount of delay or expenses

which under the circumstances appears to unreasonable are themselves relevant fact & such may be proved by secondary evidence.

27. It is also trite that though Strict rules of Evidence Act are not applicable and strict proof of legal evidence as required in criminal cases to prove the charges beyond reasonable doubt, is not required in the matter of enquiries but that does not mean that where issues are seriously contested and have to be established and proved, the requirement relating to proof can be dispensed with. No order entailing penal consequences can be made on the basis of hearsay evidence or ex-parte statements of witnesses.

28. In present case no material witness has been examined to prove the alleged charges levelled against the workman. The only witness examined by the management side is Smt. Sashi Bala Singh who has said nothing about the contents of any document pertaining to charges levelled against the workman. She has only stated that the letters contained in file No. A2 -18 bear signatures of R. K. Sharma, V. K. Mathur, G. P. Sabhal, Anil Garg, S. N. Dhobal, A. K. Sharma, V. N. Gupta and Ratan Singh and documents which have been filed alongwith list of documents also bears signature of Sh. Ratan Singh, R. K. Sharma. On the basis of said deposition it is not proved which particular document bears signature of which particular person amongst the persons named by her. She has also not stated that she had ever worked with any of them and had any occasion to recognize their signatures. Therefore, merely on the basis of her statement that documents in said file bear the signatures of the persons named by her, the documents could not be said to be proved.

29. Moreover, in the said file A-18 document at serial no. 11-21 and 30 and 31 in the list enclosed therein, are news paper clippings. Except at serial no. 21 and 30 remaining are photo copies of news paper clippings. In 1988 AIR SC page 1274 Laxmi Raj Shetty Vs. State of Tamilnadu has observed that;

“Judicial notice can not be taken of the facts stated in news item being in the nature of secondary evidence unless proved by aliunde. A report in a newspaper is only hearsay evidence. A newspaper is not once of the documents referred to in section 78 (2) of the Evidence Act by which an allegation of fact can be proved. The presumption of genuineness attached under Section (81) of the Evidence Act to a news paper report cannot be treated as proved of the facts reported therein. A statement of fact contained in a newspaper is merely hearsay and therefore in admissible in evidence in the absence of the maker of the statement appearing in court and deposing to have perceived the fact reported.” Thus in the light of

above legal position news item in photo copies of news paper clippings are not admissible. It is well settled legal position that papers clippings are not admissible evidence. News paper report by themselves are not evidence of the contents thereof, those report are only hearsay evidence and these have to be proved. News paper report is based on secondary evidence of its contents and it is not admissible without proving of the contents. Apart from this it is not evident from the news paper clippings produced by the management that contents there in were given by the workman."

30. Thus in the light of above legal position, news item in photo copies of news papers clippings are not admissible. Moreover, News paper report by themselves is not evidence of the contents thereof, those report are only hearsay evidence and these have to be proved. News paper report is based on secondary evidence of its contents and it is not admissible without proving of the contents. Apart from this it is not evident from the news paper clippings produced by the management that contents therein were given by the workman or there was any role of the workman in publication of the alleged news items.

31. Document at serial no. 1 to 8 are copies of the charge sheet, reply of the workman and letter written by the workman during enquiry proceedings said documents have been admitted by the workman. Document at Sl. No. 9 is copy of the proceeding and order dated 25-10-81, 1-11-81 which have been denied by the workman and document at serial no. 10 is copies of the statements of witnesses S. N. Dhobal, Manju Nath, B.N. Gupta, A. Sharma, M.P. Pallai and A. Agarwal during enquiry proceedings and the contents in the said documents have been denied by the workman. The management has not produced any evidence to prove the documents. Which have been disputed or denied by the workman. Smt. Sashi Bala Singh has only referred the letters in file A2 -18 bearing signature of Sh. R.K. Sharma and V.K. Mathur and others but she has not deposed and proved the signatures on the statements of witnesses said to be died or not available. Neither the content of the documents nor signatures on the documents produced by the management have been proved. Merely stating without referring any specific document that letters contained in the file A2-18 bear the signature of persons named by her and documents enclosed with the list C-38 also bears signatures of Sh. Ratan Singh and R.K. Sharma, it can not be said that the management has discharge its burden to prove the documents by secondary evidence. The management witness Smt. Sashi Bala Singh has also not proved the signature of the workman on the disputed documents, which have been denied by him. Therefore, there is neither any primary evidence nor any secondary evidence of the management on the record to prove the

charges for alleged misconduct. Merely, submission of documents is not sufficient to prove the documents and pleadings are not substitute of proof. Moreover, the documents on the basis of which charges have been leveled against the workman can not be considered if they have not been referred in the chargesheet. In instant case there is no specific reference of document, filed by the management in the charge sheet. Thus, the management has failed to prove the charges leveled against the workman on the basis of fresh evidence adduced under Section 11-A of the I.D. Act.

32. In view of the above discussion all the charges leveled against the workman stand not proved and he is entitled for exoneration from the charges leveled against him.

33. Now the question survives for consideration is whether the workman is entitled for reinstatement with back wages and other consequential benefits.

34. The learned representative on behalf of the management has contended that after removal from company services the workman made a request on 27-5-82 for issuance of experience certificate for the purpose of registration before the Bar Counsel, U.P. Allahabad and soon after removal from company services he enrolled as an Advocate on 11-6-82 and this fact is established by letter of Office Supdt., Bar Counsel. U.P. Allahabad dated 2-11-06 and workman is practicing in various courts of the Raibareilly district. He has further contended that the workman was gainfully employed as a legal professional during pendency of litigation therefore, he is not entitled for back wages. He has further contended that the management has offered him reinstatement before this Tribunal and given an opportunity to join duty within stipulated period but he refused the offer which is evident from his cross examination therefore, the workman has abandoned his claim otherwise also he being an Advocate relief of reinstatement can not be granted. He has further contended that even if termination is illegal, back wages can not be awarded as a matter of right.

35. In rebuttal, the learned representative on behalf of the workman has not denied this fact that workman subsequent to his termination from service got himself registered as an Advocate but he has urged that mere on this ground that workman is now doing practice presumption regarding his income can not be drawn. He has also urged that gainful employment is essential and legal profession can never said to be employment, mere on this ground. Thus, the workman got himself registered as an Advocate, he can not be deprived from back wages. He has also urged that the workman was not earning from practice therefore, he had to work as Assistant under other Advocate and he has been doing clerical work and for that he is earning a very meager amount. He is living in

lower income group house of the Raebareilly Vikas Pradhikarn allotted on installment. He had to sell his parental property for marriage of his daughter. In case of invalid order of dismissal, the workman is entitled for his reinstatement with back wages and other consequential benefits. In support of his contentions he has cited number of case laws in his written argument but during his oral submission on the point of back wages, he has placed reliance on following case laws;

1. 1989 (1) UPLBEC 143 Rajendra Prasad Srivastava Vs: State of U.P. and other (Ald. Weekly cases 1989 page 377).
2. 1984 AIR SC 1829 Lab I.C. 1446 SM Saiyad Vs. Baroda Municipal Corporation.
3. 1991 AIR SCC 1490 Om Prakash Goel vs. Himachal Pradesh Tourism Development Corpn. Ltd. Shimla and another.

36. I have given my thoughtfull consideration on the rival submission of both the sides.

37. In support the contention of the learned representative of the workman that "joining of legal profession can not be said to be employment, he has relied on [1989 (1) UPLBEC 143] Rajendra Prasad Srivastava vs. State of U. P. and others. In said case petitioner after his suspension started legal practice while considering the question whether the petitioner was in gainful employment during the period of suspension, Hon'ble Allahabad Court has observed that "Joining legal fraternity can not be said to be employment and joining of legal fraternity could not disentitle the petitioner to claim his arrears of salary from the date he was suspended."

38. But in (2009) 1 SCC (L &S) 502 Nirangan Cinema vs. Prakash Chandra Duby and another Hon'ble Apex Court while considering the question of gainful employment has observed as under;

"Gainful employment would also include self-employment wherefrom income is generated. Income either from employment in an establishment or from self-employment merely differentiates the sources from which income is generated, the end use being the same."

39. In the said case Hon'ble Apex Court has relied on its earlier decision in 2008 (8) SCC L&S 718 wherein respondent was earning from Agriculture to maintain himself. Hon'ble Court observed that "Labour Court was not justified in holding that merely because the respondent was receiving agriculture income he can not be treated engaged in gainful employment."

40. Thus, in view of the above legal proposition laid down by Hon'ble Apex Court employment in strict sense is not sine qua non for gainful employment. If the workman is earning or generating income as an Advocate

it can not be said that he was not in gainful employment. Therefore, the contention of the learned representative of the workman that since legal profession is not an employment, the workman can not be said to be in gainful employment, is not tenable.

41. Moreover, the burden was on the workman to prove that he was not in gainfully employed. 2006 SCC 47 U.P. State Brassware Corpn. Ltd. Vs Udai Narain Pandey Hon'ble Apex Court has held that :

"it is now well settled by various decisions of this court that although earlier this court insisted employer to raise the plea of gainful employment but having regard to provision of Section 106 of the Evidence Act or provision analogous thereto, the said plea should be raised by the workman."

42. In recent decision (2009) 1 SCC (L&S) 372 Managing Director, Balasaheb Desai Sahakari S.K. Ltd. Vs Kashinath Ganapati Kambale Hon'ble Apex Court has observed that

"it is now well settled by a catena of decisions of this court that having regard to the principles contained in Section 106 of the Evidence Act, the burden of proof to show that the workman was not gainfully employed is not on the employer. The employee has to show that he was not gainfully employed. The initial burden to prove this fact is on the workman."

43. In instant case, the workman's services were terminated in the year 1982 and the statement of claim in the Tribunal has been submitted in the year 2002. But the workman has not raised plea that he did not remain gainfully employed. Prior to the decision of the preliminary issue, he submitted an application A1-26 wherein he stated that he is in practice since 1982 and disclosed the meager income said to be earned from his practice. He also stated that he is working as Assistant of Sri R.S. Trivedi, Advocate. In support of said application he did not file his affidavit. But after the decision of the preliminary issues in affidavit submitted in rebuttal of the management evidence under Section 11-A of the I.D. Act, he has not categorically mentioned what actual income he was earning from legal profession. He has also not adduced any documentary evidence in support of his income. He has also not examined Sri R.S. Trivedi under whom he said to be worked as an Assistant.

44. In (2005) 5 SCC 124 Allahabad Jal Sansthan V/s. Daya Shankar Rai Hon'ble Apex Court considering the question of back wages has observed as under:

"we have referred to certain decisions of this court to highlight that earlier in the event of an order of dismissal being set aside, reinstatement with full back wages was the usual result. But now with the passage of time, it has come to be realized that

industry is being compelled to pay the workman for a period during which he apparently contributed little or nothing at all, for a period that was spent unproductively, while the workman is being compelled to go back to a situation which prevailed many years ago when he was dismissed. It is necessary for us to develop a pragmatic approach to problems dogging industrial relations. However, no just solution can be offered but the golden mean may arrived at."

45. In recent decision (2009) 1 SCC (L&S) 595 *Novartis India Ltd. v/s State of West Bengal* and another Hon'ble Apex Court has observed that :

"Back wages can not be granted almost automatically upon setting aside an order of termination inter alia on the premise that the burden to show that the workman was gainfully employed during the interregnum period was on the employer. The Supreme Court in number of cases decisions opined that grant of back wages is not automatic. The burden of proof that he remained unemployed would be on the workman keeping in view the provisions contained in Section 106 of the Evidence Act, 1872. Hon'ble Apex Court has further observed that as regards grant of back wages or the quantum thereof, would, therefore, depend on the fact of each case. Back wages are ordinarily to be granted, keeping in view the principles of grant of damages in mind. It can not be claimed as a matter of right."

46. The learned representative on behalf of the management has argued that the workman was removed from service in the year 1982 and present reference for adjudication has been made in the year 2002 for this inordinate delay the workman is responsible because he raised the dispute in wrong forum under U.P. I.D. Act, 1947, whereas the learned representative on behalf of the workman has urged that the workman can not be held responsible for delay. The workman filed his conciliation case before concerned authority under U.P.I.D. Act, 1947 and IT(II) Lucknow held that domestic enquiry was just and fair against that order the management filed a writ petition 4061/84 which was dismissed on 16-12-97 and subsequent to that the management challenged the jurisdiction of the IT (II) as state of U.P. was not appropriate government as far as ITI Ltd., Raebareilly is concerned. The management itself raised the objection regarding jurisdiction at a very belated stage and management is also responsible for the inordinate delay in the present matter.

47. In 1984 AIR SCC 1829 *SM Saiyad V/s. Baroda Municipal Corporation* Hon'ble Apex Court has observed that denial of back wages or a portion of period for the reason that he was prosecuting remedy in a wrong forum would not be a relevant consideration for refusal of back wages.

48. In the light of the above legal proposition, the workman can not be denied the back wages merely on this ground that he is responsible for prosecuting remedy in a wrong forum.

49. As regard contention of the learned representative on behalf of the management that since the workman is an Advocate relief of reinstatement in service can not be granted, is concerned, it has no substance. Certainly, as an Advocate the workman can not join any service under relevant rules of the concerned Bar Council but if the workman wants to join service, he can do so by getting his enrolment as an Advocate suspended. It is for the workman to decide whether he wants to join the service in case of his reinstatement or he wants to continue in legal profession. The relief of reinstatement can not be denied merely on this ground that presently the workman is enrolled as an Advocate.

50. The learned representative on behalf of the workman has cited AIR 1991 SCC 1490 & AIR 1984 SCC 1829 in support of his contention regarding grant of back wages. In AIR 1991 SCC 1490 the petitioner was practicing as a lawyer ever since his services were terminated. In the rejoinder, he merely stated that he was not earning much in that profession. At the stage of hearing in Hon'ble Supreme Court, the petitioner filed an affidavit stating therein that his total income from 1985 onwards till the date of filing of his affidavit was only Rs. 15550/. In affidavit he also stated that he was practicing as an Income Tax Advocate ever since his enrolment in Oct., 1982 but, however, he asserted that he got his first brief in the year 1985 and other side contradicted the said averments in such circumstances, while considering the question of back wages and its earlier decision in AIR 1984 SCC 1829 Hon'ble Apex Court has observed as under;

"Under these circumstances we cannot make a roving enquiry nor it would be possible for the Corporation to unearth the income which the petitioner would have derived as a practicing advocate. There are many imponderables and conjecture too. Under these circumstances we asked both the counsel to suggest a solution. We have heard both the sides on this aspect elaborately Sri P.P. Rao, learned counsel for the petitioner submitted even if the relevant period is to be treated as one of suspension pending enquiry the petitioner would have been entitled to the subsistence allowance till his reinstatement. That atleast should be the criteria in granting the back wages in a situation like this. We think this is a reasonable and fair suggestion.

"In the result termination order is quashed and consequently the petitioner shall be reinstated in service. However, he shall be entitled to the full back wages upto

the date of his enrolment as a lawyer which was in the month of Oct. 1982. From the date of his enrolment up to the date of reinstatement he shall be entitled to the back wages at the rate of half of the subsistence allowance per month and the total amount shall be computed on that basis. Out of that the income of Rs. 15,550 admittedly earned by him as a practicing lawyer shall be deducted and the balance amount shall be paid to the petitioner. The amount so paid to him shall, for the purpose of income-tax, be spread over as if derived during those financial years from the date of his dismissal till the date of reinstatement. However, we would like to make it clear that it is open to the Corporation to proceed with the disciplinary enquiry if it so chooses."

51. In instant case indisputably the workman's services were terminated w.e.f. 23-4-82 and he enrolled himself on 11-6-1982. The workman has filed his statement of claim in this Tribunal after 18 years from the date of his enrolment as an Advocate but he has not raised any plea that he was not gainfully employed Earlier the burden to prove that workman was in gainful employment was on the employer. but as stated earlier in view of the principle laid down by the Hon'ble Supreme Court initial burden was on the workman to prove that he was not gainfully employed during the period he remained out of job. Even in his affidavit filed in the rebuttal of the management evidence under section 11-A of the I.D. Act, he has not categorically mentioned his income as an Advocate. He has simply stated that in his earlier application he has mentioned particulars about his salary which he is getting as Assistant or as a Munshi of other Advocates. In cross examination he has stated that as a Assistant of Sri R. S. Trivedi he is getting Rs. 550 per month only. The management has not adduced any evidence regarding his income nor it was possible for the management to reveal his actual income which the workman would have derived as a practicing Advocate. The statement of the workman in his own favour without corroboration from other documentary or oral evidence can not be regarded as sufficient evidence to come to this conclusion that after 25 years of his enrolment as an Advocate he is earning the said meager amount only, particularly in view of this fact that during his cross-examination he has not shown his inclination to join the service without getting complete relief claimed by him. But in absence of any evidence of the management in rebuttal regarding income of the workman as an Advocate, it is not possible for the Tribunal to unearth the income of the workman as an Advocate during the period of litigation. In such circumstances whatever he has disclosed may be considered as income by gainful employment during the said period. In his affidavit he has stated that presently he is earning Rs. 550 per month only and details of earlier income have been mentioned in his application submitted in the Tribunal. In application A 1-26 dt. 1-4-2004 he has disclosed his income as under :

1. July 1982 to March 1990 Rs. 250 p.m. x 12 =Rs. 3000	
2. April 1990 to June 1994 Rs. 300 p.m. x 12 =Rs. 3600	
3. July 1994 to March 2002 Rs. 400 p.m. x 12 =Rs. 4800	
4. April 2002 to Feb 2003 Rs. 550 p.m. x 12 =Rs. 6600	
Total	Rs. 18000

Therefore, admittedly he has earned Rs. 18000 during the period July 1982 to Feb. 2003 and Rs. 39600 from March 2003 to May 2009. Thus, admittedly his income as an Advocate during the said period is Rs. 57600 in the light of the principle laid down in AIR 1991 SCC 1490 the said income is also to be considered while awarding back wages.

52. Having regard to the entire facts and circumstances of the case and keeping in view the aforementioned principle laid down by the Hon'ble Apex Court as regard to grant of back wages in case of reinstatement, the interest of justice would be subserved by reinstating the workman with continuity of service & by awarding full back wages from the date of his removal from service to date of his enrolment as an Advocate i.e. 11-6-82 and 50% back wages from the date of his enrolment upto the date of reinstatement.

53. Accordingly, the reference under adjudication is answered as under :

1. Since charges levelled against the workman stand not proved, the impugned order dt. 23-4-1982 is not justified & the same is set aside and consequently, the workman shall be entitled for his reinstatements with continuity of his service from the date of his removal from the service by the said impugned order.
2. The workman shall be entitled for full back wages from the date of his removal to the date of his enrolment as an Advocate i.e. 11-6-82.
3. From the date of his enrolment upto the date of reinstatement, the workman shall be entitled 50% of the back wages.
4. Out of the amount which he will get as back wages the income of Rs. 57600 admittedly, earned by the workman as an Advocate shall be deducted & balance amount shall be paid to the workman.

54. The Management of the Indian Telephone Industries Ltd. Raebareilly is directed to comply the above order within 8 week from the date of publication of this award.

55. Award as above.

N. K. PUROHIT, Presiding Officer

नई दिल्ली, 18 जून, 2009

का. आ. 1905.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं डब्ल्यू. सी. एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 120/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-06-2009 को प्राप्त हुआ था।

[सं. एल-22012/239/2001-आई.आर. (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 18th June, 2009

S. O. 1905.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/NGP/120/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the Industrial Dispute between the management of Chandrapur Area of Western Coalfields Ltd. and their workmen, received by the Central Government on 18-06-2009.

[No. L-22012/239/2001-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORESHRI A. N. YADAV, PRESIDING OFFICER,
CGIT-CUM-LABOUR-COURT, NAGPUR

Case No. CGIT/NGP/120/2003 Date: 02-06-2009

Petitioner/
Party No. 1 : Shri Shankar Khatri,
President, Koyla Shramik Sabha (HMS),
Br. Chandrapur Area, C/o. C.G.
Khandare, Near Mahakali Mandir
Chandrapur, P.O. & Dist. Chandrapur
(M.S.) (on behalf of Shri V.G. Dave)

Versus

Respondent/
Party No. 2 : The Chief General Manager,
Chandrapur Area of Western Coalfield
Ltd., Post & Dist. Chandrapur (M.S.)

AWARD

(Dated : 2nd June, 2009)

1. The Central Government after satisfying the existence of dispute between Shri Shankar Khatri, President, Koyla Shramik Sabha (HMS), Br. Chandrapur Area, Chandrapur (M.S.) (on behalf of Shri V.G. Dave) (Party No.1) and the Chief General Manager, Chandrapur Area of Western Coalfield Ltd., Post & Dist. Chandrapur (M.S.) (Party No.2) referred the same for adjudication to this Tribunal vide its letter No.L-22012/239/2001/IR (CM-II) dated 24-4-2003 under clause (d) of sub Section (1) and sub Section (2A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947) with the following schedule.

2. "Whether the management of M/s. Western Coalfields Ltd. in relation to its Heavy Earth Moving Machinery Institute, Durgapur, Chandrapur through Chief General Manager, Chandrapur Area, Chandrapur is justified in denying grant of the post of Instructor in T & S Grade 'B' to the workman Shri V.G. Dave, Dumper Operator Spl. Grade HEMMI, Durgapur and regularization in that post with benefit of pay & allowances w.e.f. 16-3-1995? If not, to what relief the said workman is entitled to?"

3. The Area President KSS (HMS) Union has raised the dispute of Mr. V.G.Dave before the ALC that the Petitioner was working as a Instructor for imparting training in Dumper Driving School at HEMMT Institute and on failing of the conciliation proceeding, the Government had referred it to the CGIT. During the pendency of the dispute i.e. reference No. 120/2003 on 12-1-2009 both the parties settled it amicably outside the Court. They arrived at following certain conditions. They agreed it before the Court by filing the pursis and requested for the Award in that term. I accepted it and recorded the compromise Award in the term of it. Consequently, there remained no dispute due to the compromise. Hence, this no dispute Award.

Terms and Conditions :

1. That Shri V.G.Dave, will be offered functional designation of instructor without effecting any change in Grade/Category and basic after obtaining written consent from him.
2. That Shri V.G.Dave will continue to hold his present designation of Dumber Operator along with functional designation of instructor and their career growth will be made in accordance with provision of Cadre scheme of represent designation as prescribed.
3. That in case there is no requirement of instructors, Management will be at liberty to redeploy him as per his parent designation in the Unit/Establishment according to requirement.
4. That this settlement will not be treated as precedent in any other similar cases.
5. That this settlement will resolve the dispute full and final and the workman/Union will not raise any issue connected with the dispute before any forum/tribunal or Court.
6. That the workman/Union and the Management will jointly file the settlement in Form-'H' before the CGIT, Nagpur for issuance of compromise award, accordingly.
7. That the change of designation will be effected only after the joint filing of the settlement before the CGIT, Nagpur for a compromise award.

Date: 2-6-2009

A. N. YADAV, Presiding Officer

नई दिल्ली, 25 जून, 2009

का. आ. 1906.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं जवाहर नवोदय विद्यालय के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, पोर्ट ब्लेयर के पंचाट (संदर्भ संख्या 22/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-06-2009 को प्राप्त हुआ था।

[सं. एल-42012/197/2002-आई.आर.(सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 25th June, 2009

S. O. 1906.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 22/2003) of the of the Industrial Tribunal Port Blair as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Jawahar Navodaya Vidyalaya and their workman, which was received by the Central Government on 25-06-2009.

[No. L-42012/197/2002-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE**IN THE COURT OF THE PRESIDING OFFICER
LABOUR COURT****ANDAMAN AND NICOBAR ISLANDS**

Present : Mir Dara Sheko, Presiding Officer Labour
Court, Port Blair

I.D. Case No. 22 of 2003

Pradeep Lakra : First Party

Workman

Versus

The Principal, : Second Party

Jawahar Navodaya Vidyalaya

Panchwati, Rangat,

Middle Andaman

Thursday, the 26th day of February, 2009

JUDGMENT

The instant case is a reference under section 1 of Section 10 r.w. (5) Section 12 and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947 made to his Industrial Tribunal by the order of Desk Officer, Government of India, Ministry of Labour by his order dated 11-03-2003 for its adjudication presumably due to the reason of existence of Industrial Dispute between the parties and so the reference is to, be adjudicated on the following point :—

1. Whether the action of the Management of Jawahar Navodaya Vidyalaya, Panchwati, Middle Andaman in refusing employment of First Party, Pradeep Lakra is legal and justified? If not to what other relief he is entitled to?

DECISION WITH REASONS

The representative of the First Party in the tune of his submission of demand submitted that the First Party Pradeep Lakra, was engaged in the employment under Jawahar Navodaya Vidyalaya as a labour on 10-10-97 and worked there till 31-03-2000 in lieu of salary paid by the second party, Jawahar Navodaya Vidyalaya.

It is contended that the First party was disengaged w.e.f. 01-04-2000, which is illegal, since the first party has completed 240 days work and even without notice under section 25F of the Industrial Dispute Act, the First Party was terminated.

It is pertinent to mention that although the second party submitted its written objection vide its reference No. 4-41/JNV(MA)/99-2000/1130 dated 25-03-2003, but since the second party did not participate in the final hearing till before the first award dated 18-08-2008 was passed the said written objection was not taken into consideration and accordingly the award was passed by this Tribunal on 18-08-2008 in favour of the first party by directing the second party for reinstatement of the first party, of course, in terms as were made therein.

Being aggrieved by said award, the second party has moved the Hon'ble High Court, Circuit Bench at Port Blair by filing Writ Petition No. 253 of 2008, in which the Hon'ble High Court has been pleased to send the case back on remand for fresh decision on the question referred to therein and/or in the light of contents in the Written objection of the second party.

According to the second party, the first party Pradeep Lakra was not disengaged by the second party, rather, it was he, who after leaving the institution of the second party voluntarily had joined as Peon-cum-Chowkidar presumably under the order of the Deputy Education Officer in leave vacancy dated 31-03-2000. Therefore, according to the second party, the first party himself having left his the then work under the second party as DRM he was no more required to be terminated or retrenched in terms of Section 25 F of the Industrial Dispute Act.

It may be mentioned that after receipt of copy of order of the Hon'ble High Court on 15-01-2009, the case was placed for rehearing but no evidence in addition to previous one having been adduced, the point at dispute is to be adjudicated afresh to come with finality about the dispute, be it in the affirmative or in the negative. Although, by producing the Xerox copies of the muster roll w.e.f. Oct, 1997 till November, 1998, the first party Pradeep Lakra has given an impression of continuation of his work as

Daily rated Mazdoor under the second party but beyond November, 1998, there is no other legal evidence. So, except oral version, the claim of the first party of continuity of his work as Daily rated Mazdoor till 31-03-2000 or illegal termination thereby w.e.f. 01-04-2000 is not proved by any evidence on record. In the schedule of the reference, which is required to be adjudicated by this court, any such date of termination has also not been mentioned. Because as per the schedule it is to be adjudicated, whether refusal of employment of the first party Pradeep Lakra is legal and justified or not?

On the other hand, I find that written objection of the second party in its letter head Pad is coupled with office order No. 182 dated 31-03-2000 and office order No. 305 dated 12-06-2000 issued by the Deputy Education Officer of all concerned including the first party Pradeep Lakra. From such office order No. 182, it reveals that the first party was appointed as Peon-cum-Chowkidar in leave vacancy w.e.f. 03-04-2000 on the pay and allowances as mentioned therein. Again from the other office order No. 305, I find that the first party again was appointed w.e.f. 21-05-2001 in leave vacancy and one lady Peon-cum-Chowkidar on the pay and allowances as mentioned therein.

Although such W.O. as well as the documents supplied by the second party were not taken into consideration on earlier occasion by this Tribunal, presumably, due to reason of non appearance or non representation of second party during course of final hearing. Still when the case has come back on remand with the observations and direction of the Hon'ble High Court, then those office orders in the tune of the contents of the W.O. cannot be overlooked or ignored. Rather those documents are sufficient to indicate the conduct of the first party, who by suppressing that fact has come up with his plea of reinstatement or re-employment, specially when no acceptable evidence is available that the first party had further worked under the second party w.e.f. December, 1998. On the other hand, we have been also guided by the decision of the Hon'ble Supreme Court viz; Secretary, State of Karnataka and others Versus Uma Devi and others reported in (2006) 4 SCC. There is no iota of doubt that the first party was employed under the second party as Daily Rated Mazdoor i.e. purely on temporary status. Their Lordships (being constituted with 5 Hon'ble Judges Bench) have been pleased to observe as follows :

"Merely because a temporary employee or a casual wage [MSS is not readable] absorbed in regular service or made permanent, merely on the strength of alleged continuance of his work"

"It is not, as if the person who accepts an engagement either temporary or casual in nature, is not aware of the nature of his employment. He accepts the employment with open eyes. It may be true that he is not in a position to bargain - not at arm's length - since he might have been searching for some employment so as to eke out his

livelihood and accepts whatever he gets. But on the ground alone it would not be appropriate to jettison the constitutional, scheme of employment, perpetuate illegalities and to take the view that a person who has temporarily or casually got employed should be directed to be continued permanently."

So even if there was any continuation of work as claimed by the First Party, which is, of course, not found in reality, nonetheless, in view of the decision of the Hon'ble Supreme Court, the Court cannot impose on any Institution like the Second Party or State any financial burden by insisting in regularization or permanence in the employment when the person so employed temporarily.

Thus, though by affidavit statement coupled with his own documents, the First Party had tried to substantiate his case, and although at the first instance, this Labour Court also had passed the award in his favour on 18-08-2008, but now having the opportunity of second thought, of course by considering also the documents of the second party, I conclude that the action of the management of Jawahar Navodaya Vidyalaya, Panchwati, Middle Andaman in refusing any more employment of the First Party Shri Pradeep Lakra is neither illegal nor unjustified and so the First Party is no more entitled to get any relief as sought for as a matter of right.

To explicit myself to some more extent, I do intend to mention that in the situation, the case thereby accepting the contention of the second party, hold that it was the First Party who himself had left the Institution of the second party to avail of the opportunity and to join to his the then new assignment under the Director of Education, and, he is no more entitled to get any relief whatsoever as any matter of right and so any provision vide sections 25 F, 25 H is not available.

Hence, it is,

Ordered

That the I.D. case initiated on the basis of the reference dated 11-03-2003 of the Desk Officer, Govt. of India, Bharat Sarkar, Ministry of Labour/Shram Mantralaya is hereby dismissed by holding that the action of the management of Jawahar Navodaya Vidyalaya, Panchwati, Middle Andaman in refusing employment of the First Party Shri Pradeep Lakra is legal and justified and the First party is not entitled to get any relief.

Issue copy of such award of dismissal to the Desk Officer, Govt. of India, Bharat Sarkar, Ministry of Labour/Shram Mantralaya for information.

MIR DARA SHEKO, Presiding Officer

नई दिल्ली, 30 जून, 2009

क्र. अ. 1907.—जबकि मैसर्स मेटल स्क्रैप ट्रेड कॉर्पोरेशन लि. (पब्लिक स्ट्रीट, चरित्रक बंगला क्षेत्र में कोड संख्या डब्ल्यूबी/12526

के अंतर्गत) (एतदुपरान्त प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरान्त अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन दिया है।

2. और जबकि, केन्द्र सरकार के विचार में अंशदान दर के मामले में उक्त प्रतिष्ठान के भविष्य निधि के नियम उसके कर्मचारियों के लिए उक्त अधिनियम की धारा 6 में विनिर्दिष्ट की तुलना में कम हितकर नहीं हैं और कर्मचारी भी समान प्रकृति के किसी अन्य प्रतिष्ठान के कर्मचारियों के संबंध में उक्त अधिनियम या कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरान्त उक्त प्रतिष्ठान के रूप में संदर्भित) के अंतर्गत अन्य भविष्य निधि लाभ भी प्राप्त कर रहे हैं।

3. केन्द्र सरकार एतद्वारा, अब उक्त अधिनियम की धारा 17 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा इस संबंध में समय-समय पर विनिर्दिष्ट शर्तों को ध्यान में रखते हुए, उक्त प्रतिष्ठान को उक्त योजना के समस्त उपबंधों के प्रचालन से 1-10-1983 से अगली अधिसूचना तक के लिए छूट प्रदान करती है।

[सं. एस-35015/8/2009-एस.एस-II]

एस. डी. जेवियर, अवर सचिव

New Delhi, the 30th June, 2009

S.O. 1907.—Whereas M/s Metal Scrap Trade Corporation Ltd. [under Code No. WB/12526 in Park Street, West Bengal Region] (hereinafter referred to as the establishment) has applied for exemption under clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. And whereas in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in Section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the Scheme) in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions specified in this regard from time to time, the Central Government, hereby, exempts the said establishment from the operation of all the provisions of the said Scheme with effect from 01.10.1983 until further notification.

[No. S-35015/8/2009-SS-II]

S. D. XAVIER, Under Secy.

नई दिल्ली, 30 जून, 2009

क्र.आ. 1908.—जबकि मैसर्स फुटवियर डिजाइन एंड डेवलपमेंट इंस्टीट्यूट [उत्तर प्रदेश क्षेत्र में कोड संख्या यूपी/19684 के अंतर्गत] (एतदुपरान्त प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरान्त अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन दिया है।

2. और जबकि, केन्द्र सरकार के विचार में अंशदान दर के मामले में उक्त प्रतिष्ठान के भविष्य निधि के नियम उसके कर्मचारियों के लिए उक्त अधिनियम की धारा 6 में विनिर्दिष्ट की तुलना में कम हितकर नहीं हैं और कर्मचारी भी समान प्रकृति के किसी अन्य प्रतिष्ठान के कर्मचारियों के संबंध में उक्त अधिनियम या कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरान्त उक्त प्रतिष्ठान के रूप में संदर्भित) के अंतर्गत अन्य भविष्य निधि लाभ भी प्राप्त कर रहे हैं।

3. केन्द्र सरकार एतद्वारा, अब उक्त अधिनियम की धारा 17 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा इस संबंध में समय-समय पर विनिर्दिष्ट शर्तों को ध्यान में रखते हुए, उक्त प्रतिष्ठान को उक्त योजना के समस्त उपबंधों के प्रचालन से 1-3-1996 से अगली अधिसूचना तक के लिए छूट प्रदान करती है।

[सं. एस-35015/24/2009-एस.एस-II]

एस. डी. जेवियर, अवर सचिव

New Delhi, the 30th June, 2009

S.O. 1908.—Whereas M/s Footwear Design and Development Institute [under Code No. UP/19684 in Uttar Pradesh Region] (hereinafter referred to as the establishment) has applied for exemption under clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. And whereas in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in Section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the Scheme) in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions specified in this regard from time to time, the Central Government, hereby, exempts the said establishment from the operation of all the

provisions of the said Scheme with effect from 1-3-1996 until further notification.

[No. S-35015/24/2009-SS-II]

S. D. XAVIER, Under Secy.

नई दिल्ली, 30 जून, 2009

का.आ. 1909.—जबकि मैसर्स ट्रांसकोर्प इंटरनेशनल लि. [राजस्थान क्षेत्र में कोड संख्या आरजे/9377 के अन्तर्गत] (एतदुपरान्त प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरान्त अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन दिया है।

2. और जबकि, केन्द्र सरकार के विचार में अंशदान दर के मामले में उक्त प्रतिष्ठान के भविष्य निधि के नियम उसके कर्मचारियों के लिए उक्त अधिनियम की धारा 6 में विनिर्दिष्ट की तुलना में कम हितकर नहीं है और कर्मचारी भी समान प्रकृति के किसी अन्य प्रतिष्ठान के कर्मचारियों के संबंध में उक्त अधिनियम या कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरान्त उक्त प्रतिष्ठान के रूप में संदर्भित) के अंतर्गत अन्य भविष्य निधि लाभ भी प्राप्त कर रहे हैं।

3. केन्द्र सरकार एतद्वारा, अब उक्त अधिनियम की धारा 17 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा इस संबंध में समय-समय पर विनिर्दिष्ट शर्तों को ध्यान में रखते हुए, उक्त प्रतिष्ठान को उक्त योजना के समस्त उपबंधों के प्रचालन से 1-4-1996 से अगली अधिसूचना तक के लिए छूट प्रदान करती है।

[सं. एस-35015/47/2009-एस.एस-II]

एस. डी. जेवियर, अवर सचिव

New Delhi, the 30th June, 2009

S.O. 1909.—Whereas M/s. Transcorp International Ltd. [under Code No. RJ/9377 in Rajasthan Region] (hereinafter referred to as the establishment) has applied for exemption under clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. And whereas in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in Section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the Scheme) in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said

Act and subject to the conditions specified in this regard from time to time, the Central Government, hereby, exempts the said establishment from the operation of all the provisions of the said Scheme with effect from 1-4-1996 until further notification.

[No. S-35015/47/2009-SS-II]

S. D. XAVIER, Under Secy.

नई दिल्ली, 30 जून, 2009

का.आ. 1910.—जबकि मैसर्स बिरला इंस्टीट्यूट ऑफ टेक्नॉलाजी एंड साइंस [राजस्थान क्षेत्र में कोड संख्या आरजे/5060 के अन्तर्गत] (एतदुपरान्त प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरान्त अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन दिया है।

2. और जबकि, केन्द्र सरकार के विचार में अंशदान दर के मामले में उक्त प्रतिष्ठान के भविष्य निधि के नियम उसके कर्मचारियों के लिए उक्त अधिनियम की धारा 6 में विनिर्दिष्ट की तुलना में कम हितकर नहीं है और कर्मचारी भी समान प्रकृति के किसी अन्य प्रतिष्ठान के कर्मचारियों के संबंध में उक्त अधिनियम या कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरान्त प्रतिष्ठान के रूप में संदर्भित) के अंतर्गत अन्य भविष्य निधि लाभ भी प्राप्त कर रहे हैं।

3. केन्द्र सरकार एतद्वारा, अब उक्त अधिनियम की धारा 17 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा इस संबंध में समय-समय पर विनिर्दिष्ट शर्तों को ध्यान में रखते हुए, उक्त प्रतिष्ठान को उक्त योजना के समस्त उपबंधों के प्रचालन से 25-7-1991 से अगली अधिसूचना तक के लिए छूट प्रदान करती है।

[सं. एस-35015/12/2009-एस.एस-II]

एस. डी. जेवियर, अवर सचिव

New Delhi, the 30th June, 2009

S.O. 1910.—Whereas M/s. Birla Institute of Technology and Science [under Code No. RJ/5060 in Rajasthan Region] (hereinafter referred to as the establishment) has applied for exemption under clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. And whereas in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in Section 6 of the said Act and the employees

are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the Scheme) in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions specified in this regard from time to time, the Central Government, hereby, exempts the said establishment from the operation of all the provisions of the said Scheme with effect from 25-7-1991 until further notification.

[No. S-35015/12/2009-SS-II]

S. D. XAVIER, Under Secy.

नई दिल्ली, 30 जून, 2009

का.आ. 1911.—जबकि मैसर्स डीपीएस, नोएडा [एसआरओ, नोएडा, (यूपी) क्षेत्र में कोड संख्या यूपी/14673 के अन्तर्गत] (एतदुपरान्त प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरान्त अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन दिया है।

2. और जबकि, केन्द्र सरकार के विचार में अंशदान दर के मामले में उक्त प्रतिष्ठान के भविष्य निधि के नियम उसके कर्मचारियों के लिए उक्त अधिनियम की धारा 6 में विनिर्दिष्ट की तुलना में कम हितकर नहीं है और कर्मचारी भी समान प्रकृति के किसी अन्य प्रतिष्ठान के कर्मचारियों के संबंध में उक्त अधिनियम या कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरान्त उक्त प्रतिष्ठान के रूप में संदर्भित) के अंतर्गत अन्य भविष्य निधि लाभ भी प्राप्त कर रहे हैं।

3. केन्द्र सरकार एतद्वारा, अब उक्त अधिनियम की धारा 17 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा इस संबंध में समय-समय पर विनिर्दिष्ट शर्तों को ध्यान में रखते हुए, उक्त प्रतिष्ठान को उक्त योजना के समस्त उपबंधों के प्रचालन से 1-6-1992 से अगली अधिसूचना तक के लिए छूट प्रदान करती है।

[सं. एस-35015/18/2009-एस.एस-II]

एस. डी. जेवियर, अपर सचिव

New Delhi, the 30th June, 2009

S.O. 1911.—Whereas M/s. DPS, Noida [under Code No. UP/14673 in SRO, Noida, (UP) Region] (hereinafter referred to as the establishment) has applied for exemption under clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. And whereas in the opinion of the Central Government, the rules of the provident fund of the said

establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in Section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the Scheme) in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions specified in this regard from time to time, the Central Government, hereby, exempts the said establishment from the operation of all the provisions of the said Scheme with effect from 1-6-1992 until further notification.

[No. S-35015/18/2009-SS-II]

S. D. XAVIER, Under Secy.

नई दिल्ली, 2 जुलाई, 2009

का.आ. 1912.—केन्द्र सरकार, राजभवा (संघ के शासकीय प्रयोजनों के लिए प्रयोग), नियम, 1976 (यथासंशोधित 1987) के नियम 10 के उप-नियम (4) के अनुसरण में, श्रम और रोजगार मंत्रालय के प्रशासकीय नियंत्रणाधीन निम्नलिखित कार्यालय को, जिसके न्यूनतम 80 प्रतिशत कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करती है :—

क्र.सं.	कार्यालय का नाम
1.	क्षेत्रीय श्रमायुक्त कार्यालय (केन्द्रीय), रायपुर, छत्तीसगढ़
2.	क्षेत्रीय श्रमायुक्त कार्यालय (केन्द्रीय), धुर्वा, रांची, झारखंड

[सं. ई-11017/1/2006-रा.भा.नी.]

के. एम. गुप्ता, आर्थिक सलाहकार

New Delhi, the 2nd July, 2009

S.O. 1912.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Language (Use for official purposes of the Union), Rules, 1976 (as amended 1987) the Central Government hereby notifies following office under the administrative control of the Ministry of Labour & Employment, at least 80% Staff whereof have acquired working knowledge of Hindi :—

Sl. No.	Name of the Office
1.	RLC(C), Raipur, Chhattisgarh
2.	RLC(C), Dhurva, Ranchi, Jharkhand

[No. E-11017/1/2006-RBN]

K. M. GUPTA, Economic Advisor

नई दिल्ली, 30 जून, 2009

का.आ. 1913.—केन्द्रीय सरकार, कर्मचारी भविष्य निधि और प्रवर्तन उपबंध अधिनियम, 1952 (1952 का 19) की धारा 13 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और भारत सरकार के ग्राम और टैक्स मंत्रालय की दिनांक 13 अक्टूबर, 2008 की अधिसूचना सा.आ. संख्या 2935 का अधिक्रमण करते हुए, ऐसे अधिक्रमण से पहले हुई कार्रवाई अथवा इष्टाद जाने के संबंध में होने वाली कार्रवाई के अलावा केन्द्रीय सरकार या उसके नियंत्रण के अधीन किसी स्थापन के संबंध में या किसी रेल, कम्पनी महापत्तन, खान या तेल क्षेत्र या नियंत्रित उद्योग से संबंधित किसी स्थापन के संबंध में या किसी ऐसे स्थापन के संबंध में जिसकी एक से अधिक राज्यों में विभाग या शाखाएँ हैं, केन्द्रीय सरकार एतद्वारा उक्त अधिनियम और इसके अंतर्गत निर्मित स्थानों के प्रयोजनों के लिए निम्न सारणी के स्तंभ (2) में विनिर्दिष्ट पदों के धारक अधिकारियों को उसके स्तंभ (3) में विनिर्दिष्ट कार्यालयों एवं तत्स्थानी प्रविष्टि में स्तंभ (4) में विनिर्दिष्ट क्षेत्रों के लिए निरीक्षक नियुक्त करती है :-

सारणी

क्रम सं.	अधिकारी	कार्यालय	क्षेत्र
1	2	3	4
1.	(i) केन्द्रीय भविष्य निधि आयुक्त (ii) अपर केन्द्रीय भविष्य निधि आयुक्त (अनुपालन) (iii) क्षेत्रीय भविष्य निधि आयुक्त (iv) प्रवर्तन अधिकारी	कर्मचारी भविष्य निधि संगठन, मुख्य कार्यालय, नई दिल्ली	जम्मू एवं कश्मीर राज्य को छोड़कर सम्पूर्ण भारत
2.	(i) अपर केन्द्रीय भविष्य निधि आयुक्त (ii) सहायक भविष्य निधि आयुक्त (iii) प्रवर्तन अधिकारी	कर्मचारी भविष्य निधि संगठन का जोनल कार्यालय, दक्षिण जोन हैदराबाद	आन्ध्र प्रदेश, उड़ीसा राज्य और संबन्धित क्षेत्र पुदुचेरी का यनम क्षेत्र
3.	(i) अपर केन्द्रीय भविष्य निधि आयुक्त (ii) सहायक भविष्य निधि आयुक्त (iii) प्रवर्तन अधिकारी	कर्मचारी भविष्य निधि संगठन का जोनल कार्यालय, नई दिल्ली	राष्ट्रीय राजधानी क्षेत्र दिल्ली, और उत्तराखण्ड राज्य
4.	(i) अपर केन्द्रीय भविष्य निधि आयुक्त (ii) सहायक भविष्य निधि आयुक्त (iii) प्रवर्तन अधिकारी	कर्मचारी भविष्य निधि संगठन का जोनल कार्यालय, मुंबई	महाराष्ट्र और छत्तीसगढ़ राज्य
5.	(i) अपर केन्द्रीय भविष्य निधि आयुक्त (ii) सहायक भविष्य निधि आयुक्त (iii) प्रवर्तन अधिकारी	कर्मचारी भविष्य निधि संगठन का जोनल कार्यालय, अहमदाबाद	गुजरात, मध्य प्रदेश, राज्य और दक्कन दीव और रादरा एवं नागर हवेली संबन्धित क्षेत्र
6.	(i) अपर केन्द्रीय भविष्य निधि आयुक्त (ii) सहायक भविष्य निधि आयुक्त (iii) प्रवर्तन अधिकारी	कर्मचारी भविष्य निधि संगठन का जोनल कार्यालय, फरीदाबाद	हरियाणा और राजस्थान राज्य
7.	(i) अपर केन्द्रीय भविष्य निधि आयुक्त (ii) सहायक भविष्य निधि आयुक्त (iii) प्रवर्तन अधिकारी	कर्मचारी भविष्य निधि संगठन का जोनल कार्यालय, बंगलूर	कर्नाटक और गोवा राज्य
8.	(i) अपर केन्द्रीय भविष्य निधि आयुक्त (ii) सहायक भविष्य निधि आयुक्त (iii) प्रवर्तन अधिकारी	कर्मचारी भविष्य निधि संगठन का जोनल कार्यालय, चण्डीगढ़	पंजाब, हिमाचल प्रदेश राज्य और संबन्धित क्षेत्र चंडीगढ़
9.	(i) अपर केन्द्रीय भविष्य निधि आयुक्त (ii) सहायक भविष्य निधि आयुक्त (iii) प्रवर्तन अधिकारी	कर्मचारी भविष्य निधि संगठन का जोनल कार्यालय, चेन्नई	तमिलनाडु, केरल राज्य और यमन क्षेत्र को छोड़कर लक्षद्वीप, पुदुचेरी संबन्धित क्षेत्र

1	2	3	4
10.	(i) अपर केन्द्रीय भविष्य निधि आयुक्त (ii) सहायक भविष्य निधि आयुक्त (iii) प्रवर्तन अधिकारी	कर्मचारी भविष्य निधि संगठन का जोनल कार्यालय, कानपुर	उत्तर प्रदेश एवं बिहार राज्य
11.	(i) अपर केन्द्रीय भविष्य निधि आयुक्त (ii) सहायक भविष्य निधि आयुक्त (iii) प्रवर्तन अधिकारी	कर्मचारी भविष्य निधि संगठन का जोनल कार्यालय, कोलकाता	पश्चिम बंगाल, झारखण्ड, असम, अरुणाचल प्रदेश, नागालैंड, मणिपुर, मेघालय, मिजोरम, त्रिपुरा, सिक्किम राज्य और अंडमान एवं निकोबार द्वीप समूह संघ शासित क्षेत्र
12.	(i) क्षेत्रीय भविष्य निधि आयुक्त (ii) सहायक भविष्य निधि आयुक्त (iii) प्रवर्तन अधिकारी	कर्मचारी भविष्य निधि संगठन का क्षेत्रीय या उप-क्षेत्रीय कार्यालय, राष्ट्रीय राजधानी क्षेत्र दिल्ली,	राष्ट्रीय संघ शासित राज्य दिल्ली
13.	(i) क्षेत्रीय भविष्य निधि आयुक्त (ii) सहायक भविष्य निधि आयुक्त (iii) प्रवर्तन अधिकारी	आन्ध्र प्रदेश राज्य और पुडुचेरी संघ शासित क्षेत्र यमन में कर्मचारी भविष्य निधि संगठन का कार्यालय, क्षेत्रीय या उप-क्षेत्रीय कार्यालय	आन्ध्र प्रदेश राज्य और पुडुचेरी संघ शासित क्षेत्र का यमन क्षेत्र
14.	(i) क्षेत्रीय भविष्य निधि आयुक्त (ii) सहायक भविष्य निधि आयुक्त (iii) प्रवर्तन अधिकारी	असम, अरुणाचल प्रदेश, नागालैंड, मणिपुर, मेघालय, मिजोरम और त्रिपुरा राज्यों में कर्मचारी भविष्य निधि संगठन के क्षेत्रीय या उप-क्षेत्रीय कार्यालय	असम, अरुणाचल प्रदेश, नागालैंड मणिपुर, मेघालय, मिजोरम और त्रिपुरा राज्य
15.	(i) क्षेत्रीय भविष्य निधि आयुक्त (ii) सहायक भविष्य निधि आयुक्त (iii) प्रवर्तन अधिकारी	बिहार राज्य में कर्मचारी भविष्य निधि संगठन के क्षेत्रीय या उप-क्षेत्रीय कार्यालय	बिहार राज्य
16.	(i) क्षेत्रीय भविष्य निधि आयुक्त (ii) सहायक भविष्य निधि आयुक्त (iii) प्रवर्तन अधिकारी	छत्तीसगढ़ राज्य में कर्मचारी भविष्य निधि संगठन के क्षेत्रीय या उप-क्षेत्रीय कार्यालय	छत्तीसगढ़ राज्य
17.	(i) क्षेत्रीय भविष्य निधि आयुक्त (ii) सहायक भविष्य निधि आयुक्त (iii) प्रवर्तन अधिकारी	गोवा राज्य में कर्मचारी भविष्य निधि संगठन के क्षेत्रीय या उप-क्षेत्रीय कार्यालय	गोवा राज्य
18.	(i) क्षेत्रीय भविष्य निधि आयुक्त (ii) सहायक भविष्य निधि आयुक्त (iii) प्रवर्तन अधिकारी	गुजरात राज्य दमन और दीव एवं दादर एवं नागर हवेली संघ शासित क्षेत्र में कर्मचारी भविष्य निधि संगठन के क्षेत्रीय या उप-क्षेत्रीय कार्यालय	गुजरात राज्य और दमन, दीव एवं दादर एवं नागर हवेली संघ शासित क्षेत्र
19.	(i) क्षेत्रीय भविष्य निधि आयुक्त (ii) सहायक भविष्य निधि आयुक्त (iii) प्रवर्तन अधिकारी	हरियाणा राज्य में कर्मचारी भविष्य निधि संगठन के क्षेत्रीय या उप-क्षेत्रीय कार्यालय	हरियाणा राज्य
20.	(i) क्षेत्रीय भविष्य निधि आयुक्त (ii) सहायक भविष्य निधि आयुक्त (iii) प्रवर्तन अधिकारी	हिमाचल प्रदेश राज्य में कर्मचारी भविष्य निधि संगठन के क्षेत्रीय या उप-क्षेत्रीय कार्यालय	हिमाचल प्रदेश राज्य
21.	(i) क्षेत्रीय भविष्य निधि आयुक्त (ii) सहायक भविष्य निधि आयुक्त (iii) प्रवर्तन अधिकारी	झारखण्ड राज्य में कर्मचारी भविष्य निधि संगठन के क्षेत्रीय या उप-क्षेत्रीय कार्यालय	झारखण्ड राज्य

1	2	3	4
22.	(i) क्षेत्रीय भविष्य निधि आयुक्त (ii) सहायक भविष्य निधि आयुक्त (iii) प्रवर्तन अधिकारी	कर्नाटक राज्य में कर्मचारी भविष्य निधि संगठन के क्षेत्रीय या उप-क्षेत्रीय कार्यालय	कर्नाटक राज्य
23.	(i) क्षेत्रीय भविष्य निधि आयुक्त (ii) सहायक भविष्य निधि आयुक्त (iii) प्रवर्तन अधिकारी	केरल राज्य और लक्षद्वीप और माहे एवं पुदुचेरी संघ शासित क्षेत्र में कर्मचारी भविष्य निधि संगठन के क्षेत्रीय या उप-क्षेत्रीय कार्यालय	केरल राज्य, पुदुचेरी संघ शासित क्षेत्र का माहे क्षेत्र और लक्षद्वीप संघ शासित क्षेत्र
24.	(i) क्षेत्रीय भविष्य निधि आयुक्त (ii) सहायक भविष्य निधि आयुक्त (iii) प्रवर्तन अधिकारी	मध्य प्रदेश राज्य में कर्मचारी भविष्य निधि संगठन के क्षेत्रीय या उप-क्षेत्रीय कार्यालय	मध्य प्रदेश राज्य
25.	(i) क्षेत्रीय भविष्य निधि आयुक्त (ii) सहायक भविष्य निधि आयुक्त (iii) प्रवर्तन अधिकारी	महाराष्ट्र राज्य में कर्मचारी भविष्य निधि संगठन के क्षेत्रीय या उप-क्षेत्रीय कार्यालय कर्मचारी भविष्य निधि संगठन	महाराष्ट्र राज्य
26.	(i) क्षेत्रीय भविष्य निधि आयुक्त (ii) सहायक भविष्य निधि आयुक्त (iii) प्रवर्तन अधिकारी	उड़ीसा राज्य में कर्मचारी भविष्य निधि संगठन के क्षेत्रीय या उप-क्षेत्रीय कार्यालय	उड़ीसा राज्य
27.	(i) क्षेत्रीय भविष्य निधि आयुक्त (ii) सहायक भविष्य निधि आयुक्त (iii) प्रवर्तन अधिकारी	पंजाब राज्य और चंडीगढ़ संघ शासित क्षेत्र में कर्मचारी भविष्य निधि संगठन के क्षेत्रीय या उप-क्षेत्रीय कार्यालय	पंजाब राज्य और चंडीगढ़ संघ शासित क्षेत्र
28.	(i) क्षेत्रीय भविष्य निधि आयुक्त (ii) सहायक भविष्य निधि आयुक्त (iii) प्रवर्तन अधिकारी	राजस्थान राज्य में कर्मचारी भविष्य निधि संगठन के क्षेत्रीय या उप-क्षेत्रीय कार्यालय	राजस्थान राज्य
29.	(i) क्षेत्रीय भविष्य निधि आयुक्त (ii) सहायक भविष्य निधि आयुक्त (iii) प्रवर्तन अधिकारी	तमिलनाडु राज्य और माहे और वनम को छोड़कर पुदुचेरी संघ शासित क्षेत्र में कर्मचारी भविष्य निधि संगठन के क्षेत्रीय या उप-क्षेत्रीय कार्यालय	तमिलनाडु राज्य और माहे एवं वनम को छोड़कर पुदुचेरी संघ शासित क्षेत्र
30.	(i) क्षेत्रीय भविष्य निधि आयुक्त (ii) सहायक भविष्य निधि आयुक्त (iii) प्रवर्तन अधिकारी	उत्तराखण्ड राज्य में कर्मचारी भविष्य निधि संगठन के क्षेत्रीय या उप-क्षेत्रीय कार्यालय	उत्तराखण्ड राज्य
31.	(i) क्षेत्रीय भविष्य निधि आयुक्त (ii) सहायक भविष्य निधि आयुक्त (iii) प्रवर्तन अधिकारी	उत्तर प्रदेश राज्य में कर्मचारी भविष्य निधि संगठन के क्षेत्रीय या उप-क्षेत्रीय कार्यालय	उत्तर प्रदेश राज्य
32.	(i) क्षेत्रीय भविष्य निधि आयुक्त (ii) सहायक भविष्य निधि आयुक्त (iii) प्रवर्तन अधिकारी	सिक्किम, पश्चिम बंगाल और संघ शासित क्षेत्र अण्डमान एवं निकोबार द्वीप समूह में कर्मचारी भविष्य निधि संगठन के क्षेत्रीय या उप-क्षेत्रीय कार्यालय	सिक्किम, पश्चिम बंगाल राज्य और अण्डमान एवं निकोबार द्वीप समूह संघ शासित क्षेत्र

[फा. संख्या एस-35012/03/2008-एसएस-II]

एस. डी. जेवियर, अवर सचिव

New Delhi, the 30th June, 2009

S.O. 1913.—In exercise of the powers conferred by sub-section (1) of section 13 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) and in supersession of the notification of the Government of India in the Ministry of Labour and Employment, number S.O.2935, dated the 13th October, 2008, except as respects things done or omitted to be done before such supersession, the Central Government hereby appoints the officers holding the posts specified in column (2) of the table below in the office specified in column (3) of the said table to be Inspectors for the area specified in column (4) thereof, for the purposes of the said Act and the Schemes framed thereunder in relation to any establishment belonging to, or under the control of the Central Government or in relation to an establishment connected with a railway company, a major-port, a mine or an oil-field or a controlled industry or in relation to an establishment having department or branches in more than one State, namely :—

TABLE

Sl. No.	Officers	Office	Area
(1)	(2)	(3)	(4)
1.	(i) Central Provident Fund Commissioner (ii) Additional Central Provident Fund Commissioner (Compliance) (iii) Regional Provident Fund Commissioners (iv) Enforcement Officers	Employees' Provident Fund Organisation, Head Office, New Delhi.	Whole of India except the State of Jammu and Kashmir
2.	(i) Additional Central Provident Fund Commissioner (ii) Assistant Provident Fund Commissioners (iii) Enforcement Officers	Zonal Office of Employees' Provident Fund Organisation, Hyderabad.	The States of Andhra Pradesh, Orissa and the Yanam area of the Union Territory of Puducherry.
3.	(i) Additional Central Provident Fund Commissioner (ii) Assistant Provident Fund Commissioners (iii) Enforcement Officers	Zonal Office of Employees' Provident Fund Organisation, Delhi.	The National Capital Territory of Delhi and the State of Uttarakhand.
4.	(i) Additional Central Provident Fund Commissioner (ii) Assistant Provident Fund Commissioners (iii) Enforcement Officers	Zonal Office of Employees' Provident Fund Organisation, Mumbai.	The States of Maharashtra and Chhattisgarh.
5.	(i) Additional Central Provident Fund Commissioner (ii) Assistant Provident Fund Commissioners (iii) Enforcement Officers	Zonal Office of Employees' Provident Fund Organisation, Ahmadabad.	The States of Gujarat, Madhya Pradesh, and Union Territories of Daman and Diu and Dadra and Nagar Haveli.
6.	(i) Additional Central Provident Fund Commissioner (ii) Assistant Provident Fund Commissioners (iii) Enforcement Officers	Zonal Office of Employees' Provident Fund Organisation, Faridabad	The States of Haryana and Rajasthan
7.	(i) Additional Central Provident Fund Commissioner (ii) Assistant Provident Fund Commissioners (iii) Enforcement Officers	Zonal Office of Employees' Provident Fund Organisation, Bangalore	The States of Karnataka and Goa
8.	(i) Additional Central Provident Fund Commissioner (ii) Assistant Provident Fund Commissioners (iii) Enforcement Officers	Zonal Office of Employees' Provident Fund Organisation, Chandigarh	The States of Punjab, Himachal Pradesh and the Union Territories of Chandigarh

(1)	(2)	(3)	(4)
9.	(i) Additional Central Provident Fund Commissioner (ii) Assistant Provident Fund Commissioners (iii) Enforcement Officers	Zonal Office of Employees' Provident Fund Organisation, Chennai	The States of Tamil Nadu, Kerala, and Union Territories of Lakshadweep. Puducherry except Yanam area
10.	(i) Additional Central Provident Fund Commissioner (ii) Assistant Provident Fund Commissioners (iii) Enforcement Officers	Zonal Office of Employees' Provident Fund Organisation, Kanpur	The States of Uttar Pradesh and Bihar.
11.	(i) Additional Central Provident Fund Commissioner (ii) Assistant Provident Fund Commissioners (iii) Enforcement Officers	Zonal Office of Employees' Provident Fund Organisation, Kolkata	The States of West Bengal, Jharkhand, Assam, Arunachal Pradesh, Nagaland, Manipur, Meghalaya, Mizoram, Tripura, Sikkim and Union Territory of Andaman and Nicobar Islands.
12.	(i) Regional Provident Fund Commissioners (ii) Assistant Provident Fund Commissioners (iii) Enforcement Officers	Regional or Sub-Regional Offices of the Employees' Provident Fund Organisation in the State of the National Capital Territory of Delhi.	The National Capital Territory of Delhi.
13.	(i) Regional Provident Fund Commissioners (ii) Assistant Provident Fund Commissioners (iii) Enforcement Officers	Regional or Sub-Regional Offices of the Employees' Provident Fund Organisation in the State of Andhra Pradesh and the Yanam area of the Union Territory of Puduchery.	The State of Andhra Pradesh, and the Yanam area of the Union Territory of Puduchery.
14.	(i) Regional Provident Fund Commissioners (ii) Assistant Provident Fund Commissioners (iii) Enforcement Officers	Regional or Sub-Regional Offices of the Employees' Provident Fund Organisation in the State of Assam, Arunachal Pradesh, Nagaland, Manipur, Meghalaya, Mizoram and Tripura.	The States of Assam, Arunachal Pradesh, Nagaland, Manipur, Meghalaya, Mizoram and Tripura.
15.	(i) Regional Provident Fund Commissioners (ii) Assistant Provident Fund Commissioners (iii) Enforcement Officers	Regional or Sub-Regional Offices of the Employees' Provident Fund Organisation in the State of Bihar.	The State of Bihar.
16.	(i) Regional Provident Fund Commissioners (ii) Assistant Provident Fund Commissioners (iii) Enforcement Officers	Regional or Sub-Regional Offices of the Employees' Provident Fund Organisation in the State of Chhattisgarh.	The State of Chhattisgarh.
17.	(i) Regional Provident Fund Commissioners (ii) Assistant Provident Fund Commissioners (iii) Enforcement Officers	Regional or Sub-Regional Offices of the Employees' Provident Fund Organisation in the State of Goa.	The State of Goa.
18.	(i) Regional Provident Fund Commissioners (ii) Assistant Provident Fund Commissioners (iii) Enforcement Officers	Regional or Sub-Regional Offices of the Employees' Provident Fund Organisation in the State of Gujarat and Union Territories of Daman and Diu and Dadra and Nagar Haveli.	The State of Gujarat and Union Territories of Daman and Diu and Dadra and Nagar Haveli.

(1)	(2)	(3)	(4)
19.	(i) Regional Provident Fund Commissioners (ii) Assistant Provident Fund Commissioners (iii) Enforcement Officers	Regional or Sub-Regional Offices of the Employees' Provident Fund Organisation in the State of Harayana.	The State of Harayana.
20.	(i) Regional Provident Fund Commissioners (ii) Assistant Provident Fund Commissioners (iii) Enforcement Officers	Regional or Sub-Regional Offices of the Employees' Provident Fund Organisation in the State of Himachal Pradesh.	The State of Himachal Pradesh.
21.	(i) Regional Provident Fund Commissioners (ii) Assistant Provident Fund Commissioners (iii) Enforcement Officers	Regional or Sub-Regional Offices of the Employees' Provident Fund Organisation in the State of Jharkhand.	The State of Jharkhand.
22.	(i) Regional Provident Fund Commissioners (ii) Assistant Provident Fund Commissioners (iii) Enforcement Officers	Regional or Sub-Regional Offices of the Employees' Provident Fund Organisation in the State of Karnataka.	The State of Karnataka.
23.	(i) Regional Provident Fund Commissioners (ii) Assistant Provident Fund Commissioners (iii) Enforcement Officers	Regional or Sub-Regional Offices of the Employees' Provident Fund Organisation in the State of Kerala, the Union Territory of Lakshdweep and in the Mahe area of the Union Territory of Puducherry.	The State of Kerala and Union Territory of Lakshadweep and the Mahe area of the Union Territory of Puducherry.
24.	(i) Regional Provident Fund Commissioners (ii) Assistant Provident Fund Commissioners (iii) Enforcement Officers	Regional or Sub-Regional Offices of the Employees' Provident Fund Organisation in the State of Madhya Pradesh.	The State of Madhya Pradesh.
25.	(i) Regional Provident Fund Commissioners (ii) Assistant Provident Fund Commissioners (iii) Enforcement Officers	Regional or Sub-Regional Offices of the Employees' Provident Fund Organisation in the State of Maharashtra.	The State of Maharashtra.
26.	(i) Regional Provident Fund Commissioners (ii) Assistant Provident Fund Commissioners (iii) Enforcement Officers	Regional or Sub-Regional Offices of the Employees' Provident Fund Organisation in the State of Orissa.	The State of Orissa.
27.	(i) Regional Provident Fund Commissioners (ii) Assistant Provident Fund Commissioners (iii) Enforcement Officers	Regional or Sub-Regional Offices of the Employees' Provident Fund Organisation in the State of Punjab and Union Territory of Chandigarh.	The State of Punjab and Union Territory of Chandigarh.
28.	(i) Regional Provident Fund Commissioners (ii) Assistant Provident Fund Commissioners (iii) Enforcement Officers	Regional or Sub-Regional Offices of the Employees' Provident Fund Organisation in the State of Rajasthan.	The State of Rajasthan.
29.	(i) Regional Provident Fund Commissioners (ii) Assistant Provident Fund Commissioners (iii) Enforcement Officers	Regional or Sub-Regional Offices of the Employees' Provident Fund Organisation in the State of Tamil Nadu and the Union Territory of Puducherry except the Mahe and Yanam areas.	The State of Tamilnadu and Union Territory of Puducherry except the Mahe and Yanam areas.

(1)	(2)	(3)	(4)
30.	(i) Regional Provident Fund Commissioners (ii) Assistant Provident Fund Commissioners (iii) Enforcement Officers	Regional or Sub-Regional Offices of the Employees' Provident Fund Organisation in the State of Uttarakhand.	The States of Uttarakhand.
31.	(i) Regional Provident Fund Commissioners (ii) Assistant Provident Fund Commissioners (iii) Enforcement Officers	Regional or Sub-Regional Offices of the Employees' Provident Fund Organisation in the State of Uttar Pradesh.	The States of Uttar Pradesh.
32.	(i) Regional Provident Fund Commissioners (ii) Assistant Provident Fund Commissioners (iii) Enforcement Officers	Regional or Sub-Regional Offices of the Employees' Provident Fund Organisation in the States of Sikkim, West Bengal and Union Territory of Andaman and Nicobar Islands.	The States of Sikkim, West Bengal and Union Territory of Andaman and Nicobar Island.

[F. No. S-35012/03/2008-SS. II]

S. D. XAVIER, Under Secy.

नई दिल्ली, 30 जून, 2009

का. आ. 1914.—जबकि मैसर्स डेंसो इंडिया लि., (उत्तर प्रदेश क्षेत्र में कोड संख्या यूपी/15921 के अंतर्गत) (एतदुपरान्त प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरान्त अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन दिया है।

2. और जबकि, केन्द्र सरकार के विचार में अंशदान दर के मामले में उक्त प्रतिष्ठान के भविष्य निधि के नियम उसके कर्मचारियों के लिए उक्त अधिनियम की धारा 6 में विनिर्दिष्ट की तुलना में कम हितकर नहीं है और कर्मचारी भी समान प्रकृति के किसी अन्य प्रतिष्ठान के कर्मचारियों के संबंध में उक्त अधिनियम या कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरान्त उक्त प्रतिष्ठान के रूप में संदर्भित) के अंतर्गत अन्य भविष्य निधि लाभ भी प्राप्त कर रहे हैं।

3. केन्द्र सरकार एतद्वारा, अब उक्त अधिनियम की धारा 17 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा इस संबंध में समय-समय पर विनिर्दिष्ट शर्तों को ध्यान में रखते हुए, उक्त प्रतिष्ठान को उक्त योजना के समस्त उपबंधों के प्रचालन से 17-2-1989 से अगली अधिसूचना तक के लिए छूट प्रदान करती है।

[सं. एस.-35015/9/2009-एस.एस.-II]

एस. डी. जेवियर, अवर सचिव

New Delhi, the 30th June, 2009

S. O. 1914.—Whereas M/s. Denso India Ltd. (under Code No. UP/15921 in Uttar Pradesh Region) (hereinafter referred to as the establishment) has applied for exemption under clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. And whereas, in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in Section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Funds Schemes, 1952 (hereinafter referred to as the Scheme) in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions specified in this regard from time to time, the Central Government, hereby, exempts the said establishment from the operation of all the provisions of the said Scheme with effect from 17-2-1989 until further notification.

[No. S-35015/9/2009-SS-II]

S. D. XAVIER, Under Secy.

नई दिल्ली, 30 जून, 2009

का. आ. 1915.—जबकि मैसर्स टाटा टी लि., [(कोलकाता क्षेत्र में कोड संख्या डब्ल्यूबी/5115 के अंतर्गत)] (एतदुपरान्त प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरान्त अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन दिया है।

2. और जबकि, केन्द्र सरकार के विचार में अंशदान दर के मामले में उक्त प्रतिष्ठान के भविष्य निधि के नियम उसके कर्मचारियों के लिए उक्त अधिनियम की धारा 6 में विनिर्दिष्ट की तुलना में कम हितकर नहीं है और कर्मचारी भी समान प्रकृति के किसी अन्य प्रतिष्ठान के कर्मचारियों के संबंध में उक्त अधिनियम या कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरान्त उक्त प्रतिष्ठान के रूप में संदर्भित) के अंतर्गत अन्य भविष्य निधि लाभ भी प्राप्त कर रहे हैं।

3. केन्द्र सरकार एतद्वारा, अब उक्त अधिनियम की धारा 17 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा इस संबंध में समय-समय पर विनिर्दिष्ट शर्तों को ध्यान में रखते हुए, उक्त प्रतिष्ठान को उक्त योजना के समस्त उपबंधों के प्रचालन से 1-11-1966 से अगली अधिसूचना तक के लिए छूट प्रदान करती है।

[सं. एस-35015/32/2009-एस.एस.-II]

एस. डी. जेवियर, अवर सचिव

New Delhi, the 30th June, 2009

S. O. 1915.—Whereas M/s. Tata Tea Ltd. [(under Code No. WB/5115 in Kolkata Region)] (hereinafter referred to as the establishment) has applied for exemption under clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. And whereas, in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect of the rates of contribution are not less favourable to employees therein than those specified in Section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Funds Schemes, 1952 (hereinafter referred to as the Scheme) in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions specified in this regard from time to time, the Central Government, hereby, exempts the said establishment from the operation of all the provisions of the said Scheme with effect from 1-11-1966 until further notification.

[No. S-35015/32/2009-SS-II]

S. D. XAVIER, Under Secy.

नई दिल्ली, 30 जून, 2009

का. आ. 1916.—जबकि मैसर्स नेशनल फर्टिलाइजर्स लि., [दिल्ली (उत्तर) क्षेत्र में कोड संख्या डी.एल./3657 के अंतर्गत] (एतदुपरान्त प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरान्त अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन दिया है।

2. और जबकि, केन्द्र सरकार के विचार में अंशदान दर के मामले में उक्त प्रतिष्ठान के भविष्य निधि के नियम उसके कर्मचारियों के लिए उक्त अधिनियम की धारा 6 में विनिर्दिष्ट की तुलना में कम हितकर नहीं है और कर्मचारी भी समान प्रकृति के किसी अन्य प्रतिष्ठान के कर्मचारियों के संबंध में उक्त अधिनियम या कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरान्त उक्त प्रतिष्ठान के रूप में संदर्भित) के अंतर्गत अन्य भविष्य निधि लाभ भी प्राप्त कर रहे हैं।

3. केन्द्र सरकार एतद्वारा, अब उक्त अधिनियम की धारा 17 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा इस संबंध में समय-समय पर विनिर्दिष्ट शर्तों को ध्यान में रखते हुए, उक्त प्रतिष्ठान को उक्त योजना के समस्त उपबंधों के प्रचालन से 23-8-1974 से अगली अधिसूचना तक के लिए छूट प्रदान करती है।

[सं. एस-35015/16/2009-एस.एस.-II]

एस. डी. जेवियर, अवर सचिव

New Delhi, the 30th June, 2009

S.O. 1916.—Whereas M/s. National Fertilizer Ltd. [(under Code No. DL/3657 in Delhi (North) Region)] (hereinafter referred to as the establishment) has applied for exemption under clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. And whereas, in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect of the rates of contribution are not less favourable to employees therein than those specified in Section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Funds Schemes, 1952 (hereinafter referred to as the Scheme) in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions specified in this regard from time to time, the Central Government, hereby, exempts the said establishment from the operation of all the provisions of the said Scheme with effect from 23-8-1974 until further notification.

[No. S-35015/16/2009-SS-II]

S. D. XAVIER, Under Secy.

नई दिल्ली, 30 जून, 2009

का.आ. 1917.—जबकि मैसर्स फेडरेशन ऑफ इंडियन चैम्बर्स एण्ड इंडस्ट्री (फिक्सी) [(दिल्ली क्षेत्र में कोड संख्या डी.एल./3553 के अंतर्गत)] (एतदुपरान्त प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि और प्रवर्धन उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरान्त अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन दिका है।

2. और जबकि, केन्द्र सरकार के विचार में अंशदान दर के मामले में उक्त प्रतिष्ठान के भविष्य निधि के नियम उसके कर्मचारियों के लिए उक्त अधिनियम की धारा 6 में विनिर्दिष्ट की तुलना में कम हितकर नहीं है और कर्मचारी की समान प्रवृत्ति के किसी अन्य प्रतिष्ठान के कर्मचारियों के संबंध में उक्त अधिनियम या कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरान्त उक्त प्रतिष्ठान के रूप में संदर्भित) के अंतर्गत अन्य भविष्य निधि लाभ भी प्राप्त कर रहे हैं।

3. केन्द्र सरकार एतद्वारा, अब उक्त अधिनियम की धारा 17 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा इस संबंध में समय-समय पर विनिर्दिष्ट शर्तों को ध्यान में रखते हुए, उक्त प्रतिष्ठान को उक्त योजना के समस्त उपबंधों के प्रचालन से 1-12-1974 से अगली अधिसूचना तक के लिए छूट प्रदान करती है।

[सं. एस.-35015/84/2009-एस.एस.-II]

एस. डी. बेवियर, अवर सचिव

New Delhi, the 30th June, 2009

S.O. 1917.—Whereas M/s Federation of Indian Chambers of Commerce & Industry (FICCI) [under Code No. DL/3553 in Delhi Region] (hereinafter referred to as the establishment) has applied for exemption under clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. And whereas, in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in Section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the Scheme) in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions specified in this regard from time to time, the Central Government, hereby, exempts the said establishment from the operation of all the provisions of the said Scheme with effect from 1-12-1974 until further notification.

[No. S-35015/84/2009-SS-II]

S. D. XAVIER, Under Secy.

नई दिल्ली, 30 जून, 2009

का.आ. 1918.—जबकि मैसर्स जयप्रकाश एसोसिएट्स लि., [दिल्ली (दक्षिण) क्षेत्र में कोड संख्या डी.एल./8572 के अंतर्गत] (एतदुपरान्त प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरान्त अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन दिया है।

2. और जबकि, केन्द्र सरकार के विचार में अंशदान दर के मामले में उक्त प्रतिष्ठान के भविष्य निधि के नियम उसके कर्मचारियों के लिए उक्त अधिनियम की धारा 6 में विनिर्दिष्ट की तुलना में कम हितकर नहीं है और कर्मचारी भी समान प्रकृति के किसी अन्य प्रतिष्ठान के कर्मचारियों के संबंध में उक्त अधिनियम या कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरान्त उक्त प्रतिष्ठान के रूप में संदर्भित) के अंतर्गत अन्य भविष्य निधि लाभ भी प्राप्त कर रहे हैं।

3. केन्द्र सरकार एतद्वारा, अब उक्त अधिनियम की धारा 17 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा इस संबंध में समय-समय पर विनिर्दिष्ट शर्तों को ध्यान में रखते हुए, उक्त प्रतिष्ठान को उक्त योजना के समस्त उपबंधों के प्रचालन से 1-8-1987 से अगली अधिसूचना तक के लिए छूट प्रदान करती है।

[सं. एस.-35015/10/2009-एस.एस.-II]

एस. डी. जेवियर, अवर सचिव

New Delhi, the 30th June, 2009

S.O. 1918.—Whereas M/s.Jaiprakash Associates Ltd. [under Code No. DL/8572 in Delhi (South) Region] (hereinafter referred to as the establishment) has applied for exemption under clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. And whereas, in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect of the rates of contribution are not less favourable to employees therein than those specified in Section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the Scheme) in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions specified in this regard from time to time, the Central Government, hereby, exempts the said establishment from the operation of all the provisions of the said Scheme with effect from 1-8-1987 until further notification.

[No. S-35015/10/2009-SS-II]

S. D. XAVIER, Under Secy.

नई दिल्ली, 30 जून, 2009

का.आ. 1919.—जबकि मैसर्स भारत इलेक्ट्रॉनिक्स लि., [गाजियबाद (उत्तर प्रदेश) क्षेत्र में कोड संख्या यूपी/4167 के अंतर्गत] (एतदुपरान्त प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरान्त अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन दिया है।

2. और जबकि, केन्द्र सरकार के विचार में अंशदान दर के मामले में उक्त प्रतिष्ठान के भविष्य निधि के नियम उसके कर्मचारियों के लिए उक्त अधिनियम की धारा 6 में विनिर्दिष्ट की तुलना में कम हितकर नहीं हैं और कर्मचारी भी समान प्रकृति के किसी अन्य प्रतिष्ठान के कर्मचारियों के संबंध में उक्त अधिनियम या कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरान्त उक्त प्रतिष्ठान के रूप में संदर्भित) के अंतर्गत अन्य भविष्य निधि लाभ भी प्राप्त कर रहे हैं।

3. केन्द्र सरकार एतद्वारा, अब उक्त अधिनियम की धारा 17 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा इस संबंध में समय-समय पर विनिर्दिष्ट शर्तों को ध्यान में रखते हुए, उक्त प्रतिष्ठान को उक्त योजना के समस्त उपबंधों के प्रचालन से 1-4-1973 से अगली अधिसूचना तक के लिए छूट प्रदान करती है।

[सं. एस.-35015/74/2009-एस.एस.-II]

एस. डी. जेवियर, अवर सचिव

New Delhi, the 30th June, 2009

S.O. 1919.—Whereas M/s. Bharat Electronics Ltd. [under Code No. UP/4167 in Ghaziabad (UP) Region] (hereinafter referred to as the establishment) has applied for exemption under clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. And whereas, in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect of the rates of contribution are not less favourable to employees therein than those specified in Section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the Scheme) in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions specified in this regard from time to time, the Central Government, hereby, exempts the said establishment from the operation of all the provisions of the said Scheme with effect from 1-4-1973 until further notification.

[No. S-35015/74/2009-SS-II]

S. D. XAVIER, Under Secy.

नई दिल्ली, 30 जून, 2009

का.आ. 1920.—जबकि मैसर्स एचसीएल टेक्नालॉजीस लि., [एसआरओ गुडगांव, हरियाणा क्षेत्र में कोड संख्या एचआर/5572 के अंतर्गत] (एतदुपरान्त प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरान्त अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन दिया है।

2. और जबकि, केन्द्र सरकार के विचार में अंशदान दर के मामले में उक्त प्रतिष्ठान के भविष्य निधि के नियम उसके कर्मचारियों के लिए उक्त अधिनियम की धारा 6 में विनिर्दिष्ट की तुलना में कम हितकर नहीं है और कर्मचारी भी समान प्रकृति के किसी अन्य प्रतिष्ठान के कर्मचारियों के संबंध में उक्त अधिनियम या कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरान्त उक्त प्रतिष्ठान के रूप में संदर्भित) के अंतर्गत अन्य भविष्य निधि लाभ भी प्राप्त कर रहे हैं।

3. केन्द्र सरकार एतद्वारा, अब उक्त अधिनियम की धारा 17 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा इस संबंध में समय-समय पर विनिर्दिष्ट शर्तों को ध्यान में रखते हुए, उक्त प्रतिष्ठान को उक्त योजना के समस्त उपबंधों के प्रचालन से 1-10-1983 से अगली अधिसूचना तक के लिए छूट प्रदान करती है।

[सं. एस.-35015/95/2009-एस.एस.-II]

एस. डी. जेवियर, अवर सचिव

New Delhi, the 30th June, 2009

S.O. 1920.—Whereas M/s. HCL Technologies Ltd. [under Code No. HR/5572 in SRO, Gurgaon, Haryana Region] (hereinafter referred to as the establishment) has applied for exemption under clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. And whereas, in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect of the rates of contribution are not less favourable to employees therein than those specified in Section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the Scheme) in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions specified in this regard from time to time, the Central Government, hereby, exempts the said establishment from the operation of all the provisions of the said Scheme with effect from 1-10-1983 until further notification.

[No. S-35015/95/2009-SS-II]

S. D. XAVIER, Under Secy.